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**Whistleblowing Externally: Does the Public Interest Disclosure Act  
1998 fail whistleblowers when internal disclosure fails?**

**LLM Employment Law**

**Arron Phillips (M00143351)**

**2013**

## **Abstract**

This study seeks to discover whether the Public Interest Disclosure Act 1998 does enough to support whistleblowers who seek to disclose wrongdoing. The study takes a brief look at the legislation, and then looks into the role of the prescribed persons and how effective they are in performing their role when receiving a disclosure. The study looks into primary data from both prescribed persons websites, and responses to a questionnaire. It then goes on to look at the position in New Zealand to see whether there is anything that can be transposed into UK law to benefit whistleblowers. The research shows that recent changes to the law make it difficult for whistleblowers. This is further hindered by the failure of government to maintain a correct list of prescribed persons. It further found that whilst many prescribed persons took the role seriously and gave it importance there is much to be developed. The comparison with New Zealand shows that prescribed persons could be made to do more and that minor changes to the law could potentially have significant impact.

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## CHAPTER ONE: INTRODUCTION, THE LAW AND ITS HISTORY

### INTRODUCTION

Speaking out in the public interest, often referred to as whistleblowing, appears to be increasing in prevalence. The news is inundated with stories of people releasing information about an organisation. For example, Julian Assange and Wikileaks, Ed Snowden and the NSA in America, Michael Woodford the Olympus CEO, through to smaller stories like Terry Bryan at Winterbourne which led to a BBC *Panorama* investigation. All of the above and many other whistleblowers are often made out to be the bad person in the situation and their lives are turned upside down. This leaves the question “Does the law go far enough in protecting individuals who seek to make public interest disclosures?” The question itself is far too broad to investigate in such a short dissertation as this, so I will concentrate on the role of the external organisations tasked with receiving disclosures from whistleblowers under the legislation – mainly the prescribed persons. To understand, though, how these organisations fit in and the role they play, it is crucial to see how the law has developed to protect whistleblowers over the years.

To be protected as a whistleblower in the United Kingdom the person in question must have first been in employment. To be in employment one must normally be an employee or worker S230 Employment Rights Act 1996. However, for the purposes of the Public Interest Disclosure Act 1998, which inserts Part IVA into

the Employment Rights Act 1996, a worker has a broader definition S43K Employment Rights Act 1996. This wider definition allows the likes of agency staff, contractors and au pairs, amongst others, to be protected, should they make a disclosure.

## **PRE LEGISLATION**

Prior to the implementation of the Public Interest Disclosure Act 1998, there was little protection for whistleblowers. A person who released information found little protection in the law, as there was a duty of fidelity owed to the employer. The courts, however, were occasionally willing to recognise a common law protection where there was an overriding public interest” *Gartside v Outram* (1856) 3 Jur NS 39. In *Initial Services v Putterill* [1968] 1 QB 396, the court held that the duty of fidelity would not prevent disclosure of documents which would show the employer to be in breach of the law. This protection at common law is very restricted, though, and does not really help the whistleblower as they will not know whether the breach was justified until after the event.

One big problem prior to implementation of the law which to some extent still exists to this day is fear of reprisal. This fear often leads people to stay quiet about wrongdoing. This only has a negative effect, as can be seen from the tragic circumstances of the Piper Alpha and the Herald of Free Enterprise Ferry disasters, in both cases over 100 people lost their lives. The public inquiries, the Cullen inquiry<sup>1</sup> and the Sheen inquiry<sup>2</sup> respectively found that either staff were

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<sup>1</sup> Public inquiry into the Piper Alpha disaster, CM. 1310 (1990)

<sup>2</sup> Court Inquiry, Department for Transport, Ct no. 8074, 1987, HMSO



scared to speak out or where they did, they were ignored. Reprisals were not uncommon. In fact in 1985 Clive Ponting was prosecuted for breaching the Official Secrets Act 1911, as he gave a Minister information which showed an MP had not been completely truthful to a select committee. He was acquitted by a jury and the government of the day put before parliament a new Officials Secret Bill 1989 which became law.

## **PARLIAMENTARY PASSAGE**

We tend to only know of the negative stories regarding whistleblowers, but it is likely there are many occasions where workers have spoken out and people have listened and change has occurred. However, these negative stories are the ones that lead to change. Richard Shepherd MP has been at the forefront of seeking change in regard to protecting whistleblowers. His earliest attempt was in 1988 where he tried to amend S2 of the Official Secrets Act 1911 to allow a public interest defence. The Government, however, imposed a three line whip to reject this change. A new Official Secrets Act was put on the statute books in 1989. This repealed S2; however, no public interest defence was inserted in the Act. The next campaign was by Mark Fisher MP with the Right to Know Bill in 1993 which never made it to the statute books, as it was talked out. It, likewise, sought to implement a public interest defence in the Official Secrets Act. The next attempt was in 1995 when Tony Wright MP introduced Whistleblowers Protection Bill as a ten minute rule bill – again, unsuccessful. However, later in the year the Bill was revised and introduced by Don Touhig MP as the Public Interest Disclosure Bill.

This made its way to the committee stage before being talked out by the government of the day. In late 1997 Richard Shepherd MP introduced the Public Interest Disclosure Bill. This time it had the support of the government as well as both sides of industry and, in 1998, it became an Act of Parliament. The Public Interest Disclosure Act 1998 came into effect on the 2<sup>nd</sup> July 1999.

### **THE PUBLIC INTEREST DISCLOSURE ACT 1998**

As mentioned previously, the Public Interest Disclosure Act 1998 works by incorporating sections into the Employment Rights Act 1996 (henceforward ERA 1996), and, therefore, this dissertation will refer to the incorporated sections rather than the sections of the Public Interest Disclosure Act 1998.

The relevant sections of ERA 1996 can be found at Part IVA Sections 43A-L. To be protected under the legislation, the legislation states:

A “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and tends to show one or more of the following:

That a criminal offence is about to be, is, or has been committed.

That someone is likely to fail, is failing, or has failed to comply with a legal obligation they are subject to.

That a miscarriage of justice is likely to occur, is occurring, or has occurred.

That the health and safety of an individual is likely to be, is being or has been endangered.

That environment is likely to be, is being or has been damaged.

Or that any information that tends to show any of the above is likely to be, is being or has been deliberately concealed.

These principles are found in S43B (1) Employment Rights Act 1996.

It is immaterial where in the world the relevant failure is likely to occur or has occurred S43B (2) although protection will not be granted if the discloser commits an offence themselves by making the disclosure S43B (3).

The categories of wrongdoing above are of a wide nature, and give the courts a wide margin of interpretation. However, Parliament has attempted to set limits to this, due to the courts' wide interpretation. In *Parkins v Sodexho* [2002] IRLR 109 the court held that a breach of an individual's employment contract was sufficient to fall within the category of a breach of a legal obligation. This approach was then approved in *Kraus v Penna plc* [2004] IRLR 360 (para 30). Due to this, the government put legislation before parliament in the form of S17 of the Enterprise and Regulatory Reform Act 2013. This Act inserts in S43B the requirement that the disclosure made by the worker in their reasonable belief "is made in the in the public interest." The clause was inserted to reduce the amount of claims seeking to use this line of legal argument. It was suggested that an express clause in the legislation dealing with the *parkins* issue would be best but the government disagreed stating that in some cases a disclosure of a breach

of an employee's/workers contract could be protected under the legislation as it would be in the public interest<sup>3</sup>. Such a test is new to the employment sphere and as such it may be difficult to see how it will be interpreted. However as other areas of UK law have such a test, for example Freedom of Information it is foreseeable that guidance may be sought from their interpretation.

Section 18 of the Enterprise and Regulatory Reform Act 2013(henceforward ERRA 2013) also removes the good faith test from disclosures made under any section<sup>4</sup>. However the test is not completely removed, as the ERRA 2013 also amends S49 ERA 96 to allow a tribunal when awarding remedies for detriment suffered in employment due to a disclosure to make a reduction of up to 25% on the award when the disclosure was not made in good faith. This reduction provision is also made in S123 ERA96 which provides for a compensatory award for unfair dismissal.

A worker under S230 ERA and the extended definition provided under S43K ERA who makes a disclosure which complies with S43B can receive protection from suffering detriment or unfair dismissal. They must, however, make the disclosure to the correct person, as failure to do so could prevent them from receiving legal protection.

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<sup>3</sup> Hansard, Committees debate – 9<sup>th</sup> Sitting: House of Commons 3<sup>rd</sup> July 2012 (1) (2), Clause 14 Column number 381-91

<sup>4</sup> See Sections 43C-H Employment Rights Act 1996

## FIRST TIER

The first place they should seek to disclose is to their employer; or, where the worker reasonably believes the failure relates to someone other than their employer, to that person S43C ERA 96. It is also possible to make a disclosure to a legal advisor, if made during the course of obtaining legal advice S43D ERA 96. A disclosure can be made to a Minister of the Crown if the worker's employer is appointed under any enactment by a Minister of the Crown, or if the worker's employer is a body where any of their members are so appointed S43E ERA 96. These three provisions are often called first tier disclosures after the description laid down in *Street v Derbyshire Unemployed Workers' Centre [2005] ICR 97*.

It is generally acknowledged, that the conditions for making a first tier disclosure are less stringent than those for the second and third tiers<sup>5</sup>. A disclosure made at this level is likely to have the greatest chance of rectification, as it is the company itself rather than an outsider looking to change and stop the wrong, therefore is more likely to receive compliance. This employee-employer cooperation approach of internal disclosure was at the heart of the legislation as it made its passage through parliament<sup>6</sup>.

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<sup>5</sup> J. Bowers QC et al, *Whistleblowing Law and Practice*, (2<sup>nd</sup> edition, Oxford University Press, 2012) pp 79

<sup>6</sup> See Lord Haskell, Hansard HL, 5 June 1998, col 621, see also Lord Borrie, Hansard HL, 19 June 1998, cols 1801-1802

## SECOND TIER

The second tier in the *Street*<sup>7</sup> description is that disclosures are made to prescribed persons under S43F. The test is slightly more stringent, as it not only requires the disclosure to be in the reasonable belief of the worker and in the public interest like the first tier, but also requires the worker to reasonably believe that the failure falls within the description of matters for which the person is prescribed, and that the information disclosed and any allegation is substantially true, rather than merely tending to show an allegation. It is likely that the slightly higher test is there to acknowledge that the disclosure has now moved away from an internal disclosure.

## THIRD TIER

The third tier is that of disclosure in other cases<sup>8</sup> and disclosures of exceptionally serious failures<sup>9</sup>. To meet this threshold, the criteria are set much higher in regard to both sections. The worker must reasonably believe the information disclosed and any allegation it contains to be substantially true. They must not do it for personal gain; it must also be reasonable in all the circumstances of the case for them to make the disclosure. S43G, however, requires more in that

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<sup>7</sup> *Street v Derbyshire Unemployed Workers' Centre* [2005] ICR 97

<sup>8</sup> S43C ERA 96

<sup>9</sup> S43H ERA 96

workers must also have a reasonable belief that they would be subject to detriment if they went to their employer or to a prescribed person. In the case where there is no prescribed person, they must reasonably believe evidence will be concealed or destroyed if they disclose to their employer. If they have already made a disclosure of substantially the same information to their employer or a prescribed person, they may also be permitted to make a disclosure to another person. When looking to determine the circumstances of the case, the list of criteria specified in S43G (3) should be considered. These sections apply, if, for instance, the worker goes to the media or any other organisation that is not listed in previous sections. This could include trade unions, although these could also fall within the first tier, where they are providing legal advice.

## **BRINGING A CLAIM**

To bring a claim in the employment tribunal for an employment issue, one is normally required to have two years of service, bring the claim within a specified time and meet jurisdiction requirements. For example, for unfair dismissal see S108 (1) ERA96. However, a claim for unfair dismissal because of a protected disclosure is exempt from that provision under S108 (3) (ff) ERA96. Whilst this is good for whistleblowers, on 29<sup>th</sup> July 2013 The Employment Tribunals and the Employment Appeals Tribunal Fees Order 2013 came into force. The legislation requires all claimants in the employment tribunal to pay an issue fee and then a hearing fee. The fee depends on the type of claim: a Public Interest disclosure claim is a type B claim and requires an issue fee of £250 and a hearing fee of

£950. Other types of hearing may also attract fees. Such fees are counter to interest of justice and will no doubt put some people off. There are currently two judicial review claims, one in Scotland and one in England against the fee regime. Should the reviews be successful, the Secretary of State has given an undertaking to repay any fees paid out.



## **CHAPTER TWO: PREVIOUS RESEARCH, PRESCRIBED PERSONS AND RESEARCH**

### **METHODOLOGY**

#### **PREVIOUS RESEARCH**

Whilst the Legislation has been in force since 1999 very little research has been done on the prescribed persons under S43F ERA. This could be down to the fact that the legislation encourages internal disclosure. Therefore a lot of research focuses on the role of blowing the whistle internally and good corporate policy and responsibility. In 2007 Lewis looked at the prescribed persons and their policies however this merely looked at internal policies for their own staff<sup>10</sup>. This study showed that prescribed persons were not in some cases meeting best practice and had a lot to learn when dealing with disclosures. In 2011 Lewis and Laverty looked at the prescribed persons to see whether they had sufficient information available on their websites for potential whistleblowers<sup>11</sup>. The study looked at information available on their role as a prescribed person and also general information on whistleblowing. The results were far from positive and highlighted that some prescribed persons failed to have any information at all let alone about their statutory role.

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<sup>10</sup> D Lewis, A survey of whistleblowing/confidential reporting procedures used by persons prescribed under the Public Interest Disclosure Act 1998, Communications Law, 2007 12 (4). pp. 124-130

<sup>11</sup> D Lewis and A Laverty, A survey of information about whistleblowing provided on the websites of persons prescribed under part IVA Employment Rights Act 1996, Middlesex University, May 2011

## **PRESCRIBED PERSONS**

Who are the prescribed persons and where do they come from? S43F (1) (a) ERA grants the Secretary of State the power to prescribe a person by order. As the statutory protection is one granted to those in a form of employment it is usually the Secretary of State for Business Innovation and Skill. The order may list either persons or description of persons who may take and investigate a protected disclosure. The order must also specify the description of the matter for which a person is prescribed. A person however under the order can be an organisation, for example, the Civil Aviation Authority.

The original list can be found in the Public Interest Disclosure (prescribed Persons) Order 1999 No 1549. This list was superseded by The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 No 1993. This list however has been amended on several occasions by statutory instruments of the same title 2004 No 3265, 2005 No 2464, 2008 No 531, 2009 No 2457, 2010 No 7, 2012 No 462 and 2013 No 2213. Each of these amendments either changes a prescribed person or amends the matter for which a person is prescribed.

As each of the statutory instruments after 2003 do not recreate the list, it was difficult to establish who was a prescribed person. Whilst it was easy to work out some, others were harder as they were appointed under different legislation.

Other problems encountered were finding that some organisations had been abolished, for example the Scottish Commission for the Regulation of Care which was abolished by the Public Service Reform (Scotland) Act 2010. In cases such as this the prescribed person list states:

*A person (“person A”) carrying out functions, by virtue of legislation, relating to relevant failures falling within one or more matters within a description of matters in respect of which another person (“person B”) is prescribed by this order, where person B was previously responsible for carrying out the same or substantially similar functions and has ceased to be so responsible.*

*About matters falling within the description of matters in respect of which person B is prescribed by this Order, to the extent that those matters relate to functions currently carried by person A.*

This allows another organisation to take the role without the need for an amendment to the order. So when the above example was abolished, Social Care and Social Work Improvement Scotland was created in the same piece of legislation. It took over the majority of roles performed by the Scottish Commission for the Regulation of Care, and thus also took over the role as a prescribed person.

## **GOVERNMENT LIST**

The Department for Business Innovation & Skills have attempted to maintain a list of prescribed persons. The list most recently published on the 20<sup>th</sup> February 2013 is freely available online and is reproduced in the annex to this dissertation. When this list is compared with the list completed for this research it suggested

that the department's document has some errors. The list published in 2013 fails to account for the addition of the Office of Qualifications and Examination Regulation which was added to the list under Statutory instrument 2012 No 462. It also places the responsibility of disclosure regarding Scottish charities with the Scottish ministers despite the fact that the Charities and Trustees Investment (Scotland) Act 2005 officially gave the role of regulating charities across to the Office of the Scottish Charity Regulator. It is the writer's belief that this also transferred the role of the prescribed person across to the regulator under the person A to person B rule within the prescribed persons list.

As an aside, the Information on Page 2 of the Department's list suggests that potential whistleblowers write their information down and send it to the prescribed person. However nowhere in the legislation does it require a whistleblower to do this. Whilst it may be considered good practice and of benefit to workers should action be taken in the courts at a later stage, it is not a requirement. It is argued that a government department should be informing potential whistleblowers of all the ways they could disclose to a prescribed person rather than potentially limiting the ways.

Having completed a detailed search to identify the prescribed persons, the next step in the methodology was to decide who should be contacted as some of those prescribed would make the research very onerous and time consuming. Therefore local authorities were excluded from the research. This is an approach

that has been taken previously by Lewis and Lavery<sup>12</sup>. It was also felt that an update on the website research would be of value and in order to compare results there would need to be a consistent approach in regard to which websites were searched.

## **METHODOLOGY**

It is this lack of research that makes further study imperative, as without detailed information on how prescribed persons are fulfilling the role it is impossible to say whether the protection in S43f ERA has any value. Therefore this dissertation seeks to look at this lacuna and attempts to fill some gaps. With the lack of academic work on this area it was necessary to do field research and ask each of the prescribed persons about how they perform their functions. To make sure the results were valid and comparable, a questionnaire was felt the best option rather than of interviews. Furthermore, it was also unlikely that all prescribed persons would participate in the questionnaire or an interview and it was felt that the questionnaire would yield a greater response. Previous studies mentioned above have taken the approach of not naming the organisations. Throughout this dissertation however it has been decided to name organisations. This decision was made as it was felt that, if this is going to contribute in any way to developing good practice and inform these organisations of their failings and also their positives, it was crucial that a marker exists for accountability. Those

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<sup>12</sup> D Lewis and A Lavery, A survey of information about whistleblowing provided on the websites of persons prescribed under part IVA Employment Rights Act 1996, Middlesex University, May 2011

organisations that may be failing to meet the standards would know which organisations to look at for guidance and vice versa. Similarly, those setting the standard would know who to share their best practice with in order to improve the perception of the role of prescribed persons generally. Furthermore by naming these organisations/public bodies it adds to the sense of transparency. It is hoped that the prescribed persons will not see this in a negative manner, but use this as stepping board to improve the arrangements in place, and create a more consistent response for whistleblowers that need to use the prescribed persons.

## **METHODOLOGY FOR WEBSITE SEARCHING**

Whilst Lewis and Lavery took a broad approach to their searching, it was decided to be much more rigid in this study. In this regard, when searching, a positive result was one that had clear information available on the prescribed person's website about their functions. Any general information on whistleblowing was not deemed to be of value for these purposes. To enable a consistent approach the searching was all done on 31<sup>st</sup> March 2013 by the writer. (For a list of the websites searched see annexed document). It was felt that only the first page of search results should be looked at as a person looking for information is unlikely to go through several pages. It is acknowledged that this does lead to potentially relevant information being missed, it is not felt to negate the results, as it shows the prescribed person is failing in making their role known. Given the purposes of the exercise, on balance it was felt that this

approach was justified. To make the results comparable with Lewis and Lavery the same five search terms were used: 'whistleblower', 'whistleblowing', 'protected disclosure', 'public interest disclosure' and 'confidential reporting'.

## **METHODOLOGY FOR QUESTIONNAIRE**

On the 23<sup>rd</sup> February 2013 a total of 54 organisations were sent questionnaires by first class mail. Each organisation received a covering letter, a questionnaire (both in the annex) and a stamped addressed envelope to return the survey. However, the letter did give an email address for respondents to use. . On the 1<sup>st</sup> April 2013 a follow up exercise was carried out in relation to those organisations that had yet to respond. It was felt that mail would not be an appropriate method for this owing to time constraints and the fact that the targets had already failed to respond by post. A search was therefore done on their websites for a suitable contact email address. To be a suitable email address it had to either be a general contact address or a specific email for whistleblowing disclosures. This was because it was likely that any other email address would go to the wrong recipient and not make it to the correct person or team. Using email to follow up, inhibits any organisation from suggesting that they never received the questionnaire and thus makes any negative results more credible. Seven of the organisations did not however have a suitable email address and in those cases no follow up was made. All results were collated on the 12<sup>th</sup> May 2013 and no responses were received after that date.

## **FREEDOM OF INFORMATION REQUESTS**

The questionnaire could have been seen as a request for information under the Freedom of Information Act 2000. Whilst this avenue was considered when composing the questionnaire it was decided not to make such requests. This was because one purpose of the prescribed persons is to hold organisations to account and thus help organisations become more transparent. Therefore it is important that the prescribed persons themselves are also open, accountable and transparent. Furthermore, these organisations have been prescribed under a statutory framework and should therefore be accountable to the general public without the need to force them to provide information. By not making statutory requests emphasis has been placed on those prescribed persons who are open and transparent. This openness can be viewed as a good thing for potential whistleblowers as it might be thought that prescribed persons are more likely to take disclosures seriously because of their potential accountability. However, it should be noted that some of the prescribed persons in their correspondence did treat the questionnaire in line with their freedom of information procedures. It would be of interest as a piece of further research to make such a request to those who failed to respond.



## **Chapter 3 Non Statutory Assistance and Prescribed Persons Websites**

### **Advice**

One of the problems with the legislation is that it fails to provide whistleblowers with an option to receive advice from any of the organisations that are listed as being suitable to receive disclosures. Its failure is apparent from the wording of the legislation “a qualifying disclosure is made in accordance with this section if”. This allows someone to make a disclosure to these organisations but does not require the organisation to provide advice about making the disclosure. The legislation therefore suggests that the organisation should merely receive the disclosure and then act accordingly. As the legislation does not provide for advice to be given, it then becomes necessary to look elsewhere to see if there exists a place for whistleblowers to receive advice.

### **Assistance via Hotlines/Helplines**

There are various types of hotlines or helplines for whistleblowers. Generally hotlines would be set up for people to ring and make disclosures. Hotlines can often be found in employers policies/procedures as a process to be used in making the employer aware of any problems. The hotline is often run by a third party being paid to provide the service by the employer. Helplines are more typically outside of the employment relationship and would allow an employee/worker to call and speak with someone and receive advice prior to

making any disclosure. These helplines may be run by charities, trade unions or professional bodies that oversee or regulate a profession.

There are organisations out there that are able to provide advice; however, before looking at them, it is important to recognise that there are also other types of organisations who profess to support and advise whistleblowers. When a more detailed examination of them is made, though, it becomes apparent that they are less about the whistleblower, and more about looking after the employer or getting the big story out there into the public domain. The companies that look after the employer can play an important role in bringing the wrongdoing to the attention of the employer. These organisations, whilst external and completely separate, are often part of a company's whistleblowing policy/procedure. The policy will advise the employee or worker to contact that company, rather than going to the employer. This can potentially have a good impact, as it removes the individual whistleblower from making the disclosure directly, but still enables the disclosure to be made in a way that provides protection within the legislation. The downside to these organisations are that they are there as part of the policy and can be perceived as being there to protect the employer. A further potential pitfall with these organisations is that they are there to receive the disclosure, and are therefore unlikely to be providing advice, but asking questions to get the information. This can be seen from one of the websites of such an organisation; they state that:

*“Our Call Handlers each has over 25 years investigative experience interviewing witnesses, securing and retaining evidence and each one complies with all current UK legislation.”<sup>13</sup>*

The second type of organisation mentioned above will often be companies who promise to make the story heard. They act as an intermediary between the whistleblower and the potential receiver. In most cases the potential receiver will be the media. These organisations really fail to support whistleblowers effectively, making promises such as anonymity unless legally required to divulge. However, such promises may not always be possible when and if the story makes it to the main press. If a whistleblower was to use one of these organisations, if they have not gone to their employer and the regulators first, they will normally lose any statutory protection they may have had unless it's a case of exceptionally serious wrongdoing. As mentioned, these organisations are often there to get the story. In fact, some are often connected to the media – one was even created by staff from the Mirror Group<sup>14</sup>.

### **Positive Advisory Groups**

Whilst these organisations exist, there are also organisations that genuinely seek to support and provide advice to whistleblowers.

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<sup>13</sup> [http://www.safecall.co.uk/key-facts/info\\_1.html](http://www.safecall.co.uk/key-facts/info_1.html) accessed 28/09/2013

<sup>14</sup> [whistleblowers.uk.com](http://whistleblowers.uk.com) accessed 28/09/2013

There are many organisations that can provide advice, from trade unions to individual organisations. These organisations are often based within certain sectors, such as the Whistleblowing Helpline for those in the NHS and social care<sup>15</sup>. As they are sector-based, they are only able to provide advice to people who work in that sector. Whilst this is a limitation, it is one that, in some cases, can be beneficial as they are likely to have a significant knowledge of the industry.

A more general advice line is available through the charity Public Concern at Work (PCaW). PCaW was formed in 1993 and have three core aims:

To advise individuals with whistleblowing dilemmas at work.

To support organisations with their whistleblowing arrangements.

To inform public policy and seek legislative change.

Since its inception, the charity has been leading the way in making whistleblowers heard and ensuring they have protection. PCaW were involved with drafting of DR Tony Wright MP's Bill in 1995. Whilst that failed to make it to a statute, PCaW continued to be involved with debate and consultation that led to PIDA. Whilst the charity lobbies for change, it is an independent organisation and receives no funding from the government, but, instead, receives funding from donations, its advice line subscriptions and from training and consultancy which it provides.

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<sup>15</sup> <http://wbhelpline.org.uk> accessed 28/09/2013

PCaW believe that any case brought and won in the courts is a sign of failing in that someone has been victimised for whistleblowing<sup>16</sup>. It therefore seeks to provide advice that aims to facilitate the disclosure of wrongdoing and as well as to reduce the likelihood of victimisation occurring. The charity seeks to provide practical advice to people who call the helpline, so that they can go back to the employer and resolve the issue without the need to bring legal proceedings. 81% of people willing to participate in feedback that had contacted the advice line in 2010 said they had followed the advice given; furthermore, 97% said the advice was clear and easy to understand<sup>17</sup>. The charity also works with organisations through training and consultancy to improve their whistleblowing policies/procedures and enable organisations to have a greater understanding of the legal position.

PCaW has developed a reputation since its creation of being the leading organisation within the UK in regard to whistleblowing. Not only do they provide advice for individuals and businesses, but they are often a point of contact for the Prescribed Persons. This Contact with prescribed persons also enables the charity a way of keeping on top of who are the correct regulators, meaning the charity is in a good place to refer individuals to the correct regulator. In Lewis and Lavery's research<sup>18</sup>, 3 regulators mentioned PCaW on their websites. In the

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<sup>16</sup> [www.pcaw.org.uk](http://www.pcaw.org.uk) accessed 28/09/2013

<sup>17</sup> Whistleblowing: beyond the law, Public Concern at Work Review, October 2011

<sup>18</sup> D Lewis and A Lavery, A survey of information about whistleblowing provided on the websites of persons prescribed under part IVA Employment Rights Act 1996, Middlesex University, May 2011

questionnaire responses (see Chapters 4-6), 17 of the Prescribed Persons made mention of PCaW in some form.

Whistleblowers UK is another organisation set up to give advice and assistance to those considering making a disclosure. The group has regular meetings to provide support and understanding for those who wish to blow the whistle and continued support for those that already have. The organisation is made up of many people who have blown the whistle and come from backgrounds and sectors.

## **Website Research**

### **Problems encountered when searching Prescribed Persons Websites**

When undertaking the website searching, the collated list of prescribed persons had a total of 54 potential regulators. It had not, at that stage, been ascertained whether the Scottish Ministers or the Office of the Scottish Charity Regulator were the Prescribed Person; both were, therefore, included in the search. Having looked on the website of the Scottish Ministers during the search, it became clear that the function had moved over to the Office of the Scottish Charity Regulator, and, therefore, when collating the results the Scottish Ministers were not included, leaving a total of 53 regulators.

During the research it was found that the Head of Consumer Product and Safety does not have its own website, so was treated as not applicable for statistical purposes. No results were able to be taken from the Charity Commissioner for England and Wales, as, every time a search was attempted, the result would

come back with 'server too busy'. Out of fairness, they have been treated as not applicable. The Children's Commissioner for Wales had no search function available on its website. This was therefore treated as no relevant information under each search term and was included in the statistics.

### **Search Terms and results**

#### **'WHISTLEBLOWER'**

Only 13 of the 53 searched had any relevant information for a total of 25%. Thus, 38 of Prescribed Persons (72%) had no information and 2 were deemed not applicable (3%). Whilst no direct comparison can be made with study done by Lewis and Lavery, it is interesting to note that, when they searched, 43% offered relevant information on whistleblowing.

#### **'WHISTLEBLOWING'**

18 of the 53 had relevant information, that being 34%. 33 therefore had no relevant information (63%) and 2 were deemed not applicable (3%). Lewis and Lavery had a 63% match with relevant information under this heading.

#### **'PROTECTED DISCLOSURE'**

14 of the 53 had relevant information, that being 27%. 37 therefore had no relevant information (70%) and 2 were deemed not applicable (3%). 41% of

Prescribed Persons provided relevant information under this heading in the prior research.

#### 'PUBLIC INTEREST DISCLOSURE'

18 of the 53 had relevant information, that being 34%. 33 therefore had no relevant information (63%) and 2 were deemed not applicable (3%). The previous research 39% of regulators had relevant information under this heading.

#### 'CONFIDENTIAL REPORTING'

2 of the 53 had relevant information, that being 3%. 49 therefore had no relevant information, a staggering 94%, and 2 were deemed not applicable (3%). 16% of regulators had relevant information on previous research.

Only one Prescribed Person that of the Serious Fraud Office had relevant information under all five search terms. 16 of the 53 had relevant information under 3 or more search terms – that is only 30%. Furthermore, 31 of the 53 Prescribed Persons had no relevant material under any search term: a surprising 58%.



## **A comparison of the two studies**

In the previous study it was found that 3 regulators had no website and a further 9 had no independent presence. In the current research only one organisation had no website, that being the Head of Consumer Product and Safety. 7 regulators had no independent presence or website of their own. The Accounts Commission for Scotland and Auditor General for Scotland had a presence on Audit Scotland's website. The Lord Advocate Scotland had a presence on the Scottish government website. The Criminal Cases Review Commission, the Department of Business of Innovation and Skill and the Secretary of State for Transport (performed through the Maritime and Coastguard Agency) can all be found on pages of the government website<sup>19</sup>. The Welsh Housing Directorate is to be found on the Welsh government's website<sup>20</sup>. It is of very small encouragement that the results have improved. Whilst the majority have a presence on the Internet, being associated with other organisations can cause confusion. For instance, because the Accounts Commission for Scotland, Auditor General for Scotland and Audit Scotland share a website and perform similar functions, any potential whistleblower may find it difficult to decide which of the three regulators to make their disclosure to. The ideal would be for each regulator to have an independent presence on the Internet that has clear information on their role as a Prescribed Person.

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<sup>19</sup> [www.gov.uk](http://www.gov.uk) accessed 28/09/2013

<sup>20</sup> [www.welsh.gov.uk](http://www.welsh.gov.uk) accessed 28/09/2013

Due to the broader nature of Lewis and Lavery's research, it is no surprise that under each of the search terms they had higher results. It is of concern, though, that since that survey two years ago the regulators have not improved their website information. Considering that many of these organisations have been prescribed for a considerable time, it is a worry that their websites seem so lacking in relevant material. The lack of information may be down to many things, such as pressure on resources, as it appears that no extra resources or funding have been given to support the regulators, lack of time to update the websites, or the fact that the Internet has taken on a much more significant role in the last few years. Indeed when these organisations took on the role, the Internet was not the first port of call as it is today. What appears to be lethargy to provide information on their websites and then update and maintain it, may result in people not coming forward to make disclosure, as they do not have the time to dig deeper to find out where to go, or how to go about it.

#### **Chapter 4 Questionnaires with no or negative responses**

As mentioned in Chapter 2 a list of prescribed persons was created to enable questionnaires to be sent. At the point of sending these questionnaires out on the 23<sup>rd</sup> February 2013 it had yet to be established in my mind on evidence whether the role of Scottish charities had moved from the minister to the office of Scottish charity regulator therefore it was felt best to send the questionnaire to both.

#### **RESPONSES**

The questionnaire was sent to the 54 organisations on the 23<sup>rd</sup> February 2013. By the 1<sup>st</sup> April 2013 26 organisations had responded in some form accounting to 48% of the total 54. Of the remaining 28 organisations 21 of them (75%) were sent an email as a follow up to the original questionnaire. 7 organisations did not have an email address so no follow was sent (25%). From these follow up emails a further 16 responses were received by the 12<sup>th</sup> May 2013 when results were reviewed. Therefore 42 organisations in total responded (78%). 12 organisations failed to respond at all (22%) (No further questionnaire responses were received after the 12<sup>th</sup> May 2013).

## **NO RESPONSES**

The following organisations failed to respond to the survey and or email in any way:

Charity Commissioner for England and Wales

Scottish Ministers (responsible for charity regulation)

Chief Executive of the Scottish Criminal Case Review Commission

Competent Authority (head of listing department London stock exchange)

Commissioner for revenue and customs

Food Standards Agency

Scottish Social Services Council

Health and Safety Executive

Children's Commissioner

Financial Reporting Council

Serious Organised Crime Agency

Head of Consumer Product and Safety

It is disappointing that these organisations which perform such an important role were unable to respond to the questionnaire.

## **Responses received but unable to respond**

11 of the organisations that were written to responded that they were unable to respond to the request (20%).

The Comptroller and auditor general of the national audit office

The comptroller in their response stated they did complete questionnaires. They did not specify why this was the case and one can only speculate however it is interesting to note that all other auditing organisations that are prescribed completed the questionnaire so it cannot be said to be down to the type of information they deal with. The response directed me to a website:

[www.nao.org.uk/about\\_us/whistleblowing\\_concerns.aspx](http://www.nao.org.uk/about_us/whistleblowing_concerns.aspx)

However every time I have checked (most recently 21<sup>st</sup> September 2013) the link, the response received is that the page cannot be found.

The Serious Fraud Office

They were unable to fill in the questionnaire as they could not find a prescribed person within the organisation. The Organisation was the only organisation on the website searching that had information under every searched term (see chapter 3). The fact that the person who followed up the email sent, a strategic

policy advisor within the organisation was unaware that the organisation was a prescribed person and was looking for a specific individual throws many question marks up, such as how seriously does the organisation as a whole take the role of whistleblowers?

#### Lord Advocate of Scotland

The lord advocate failed to respond to the original posted questionnaire and thus was sent a follow up email. The governments list gives a contact as the head of international and financial crime unit; the response I received back stated that no such department exists. Whilst the lord advocate may be a prescribed person it is of concern that the contact details given by the relevant government department is incorrect. It is not unreasonable to assume that a whistleblower would rely on the information in that document to be correct.

#### The Children Commissioner for Wales

In response to my request they felt they could not respond citing that they had to prioritise the needs of children and young people in wales and as such did not have 'capacity' to respond to the survey. It is sad that the commissioner felt unable to respond, considering the general yes or no responses requested. It is felt that the email explaining their refusal was likely to have taken more time to formulate and send than the time taken had they responded to the questionnaire.

## Care Quality Commission

Their response stated that they were unable to complete the questionnaire without giving a reason. In the email (10<sup>th</sup> April 2013) the CQC apologised for the delay in responding citing that HR did not receive the original correspondence.

This response is of concern as on the 1<sup>st</sup> March 2013 an email was received acknowledging receipt of the request and giving a reference number. It begs the question is this lack of organisation endemic within the organisation? If information such as a simple letter does not make it through to the correct person, how can whistleblowers trust that their concerns are going to the appropriate person and being investigated properly?

## The Office of Fair Trading

The organisation responded stating that they did not have time and resources to answer student queries in detail and that they can only give general guidance and in accordance with their policy of transparency referred me to their website [www.oft.gov.uk](http://www.oft.gov.uk). The worry however here is that on the website survey in chapter 3 the Office of Fair Trading did poorly, in fact they failed to have any relevant information about their role as a prescribed person. This calls into question their policy of transparency.

## Office of the Rail Regulator

They did not respond to the questionnaire in the manner requested they did however give a detailed email about their role looking after the industry. They also provided a copy of their complaints procedure. They acknowledged within the email that they were a prescribed person. They further commented that they did not have a policy or procedure for public interest disclosure as they have never received a complaint under the legislation distinct from their normal complaints procedure. I use the word complaint here as this is the term used by the rail regulator in their response, it is not a term however that is suitable for use when describing a whistleblowers disclosures, and should not be used see chapter 5 for further comment on this.

## The Department of Business Innovation and Skill

The department, who are responsible for overseeing and appointing prescribed persons, is itself a Prescribed Person in relation to insider dealing or fraud and other misconduct in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes)<sup>21</sup>.

However the relevant department responded that they were unable to respond, as it was departmental policy that they do not complete questionnaires for a dissertation. As the organisation that oversees this most important role, it is a worry that they have such a blanket policy and do not set an example to the rest

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<sup>21</sup> Statutory instrument 1999 no 1549 (referred to under previous name of Secretary of State Trade and Industry)



of the prescribed persons, especially when the government and their departments are meant to be open and accountable to citizens.

#### Monitor

The independent regulator of NHS trusts confirmed that they were a prescribed person. They were, however, unable to complete the questionnaire citing that this was due to the nature of the role. Considering the questionnaire asked very simple questions none of which asked for information that was of a confidential or difficult nature it is sad and worrying that such a reason can be cited for not completing the questionnaire.

#### Health and Care Professions Council

The organisation responded they were unable to respond as they were 'a regulatory body who has never encountered this type of situations' (sic). As the questionnaire itself was more directed as to the organisation preparation for a potential disclosure, this response is possibly the most worrying of them all. If the organisation itself appears to be unaware or unprepared in regard to its role as a prescribed person, how can a whistleblower have any faith that their disclosure will be dealt with appropriately.

## The Office of the Scottish Charity Regulator

They responded that they felt they were unable to provide an informed response at the time. This response would appear to attract the same comments as those relating to that of the health & Care Professions council however it is not as unexpected as in the case delineated above. The fact that this gave some difficulties in research to define who was the prescribed person in relation to Scottish charities, it is possible to imply or suggest that the organisation may in itself be unaware that the role has passed over to it.

## Thoughts

Having received these responses, it is of concern that in effect 23 organisations 43% failed to complete the questionnaire. One must question the reasons for this: are they worried they won't meet the same standard as other prescribed persons? Or have they not properly prepared for the role?

It is possible, of course, that, of the 12 organisations that failed to respond, some never received the questionnaire, as it may have got lost in the mail. However, the email should have covered that possibility. Although, owing to the lack of relevant email addresses of some organisations, it is a small possibility that can't be ruled out. However it is unlikely as all surveys were posted at the same time and many responded so it can be implied they were received. Another possibility as can be seen from the Care Quality Commission's response, where the request was received but never made it to the appropriate person for completion. It is

possible that some did respond by post and it got lost in the return mail. This, in fact, occurred with the Maritime and Coastguard Agency however they very kindly responded to the follow-up email and sent in the responses again, this time electronically.

### **Response received Not Prescribed Persons**

Two organisations responded that they did not consider themselves to be prescribed persons.

The Public Service Ombudsman for Wales gave no reason as to why they felt this was case.

The Standards Commission for Scotland responded explaining that as an adjudicatory authority they were not responsible for dealing with 'complaints'. They stated the function was provided by the public standards commissioner for Scotland. The public standards commissioner for Scotland was a role previously carried out by the chief investigating officer. The statutory instrument and the department list of prescribed person both state the chief investigating officer alongside the standards commission for Scotland has responsibility for disclosures. It is therefore apparent that there is some confusion over who performs this function. Having noted that several inaccuracies appear in the department list, and that the legislation is not updated effectively, it is likely that the response received from the standards commission for Scotland is an accurate picture of the current position.

### **Responses which are inconclusive**

Only one response was received in which there was no way of interpreting the data either positively or negatively. The Scottish Environment Protection Agency responded to the survey by circling that they were not a prescribed person they did not answer question 2 or 3 but then went on to complete the survey which suggests they may have misread the question or answered it wrong, In any event the response lacks any clarity for us to take any solid result therefore, for the purpose of generating accurate data results I have omitted their responses.

## **Chapter 5 completed questionnaire responses**

A total of 30 questionnaires received could be deemed as completed (56%). This however includes the two organisations that said no to question 1. Therefore 28 questionnaires were used as positive results (52%). Whilst this is only just over half it does not make the information invalid. 52% represents a substantial number of responses – enough to suggest that the data can be taken as representative of the prescribed persons.

The 28 organisations that provided completed questionnaires were:

Accounts Commission for Scotland

Audit Commission for England and Wales

The Certification Officer

Chief Executive of the Criminal Cases Review Commission

Civil Aviation Authority

Auditor General for Wales

Auditor General for Scotland

Audit Scotland

Director General of Water Services

Water Industry Commissioner for Scotland

Environment Agency

Care Council for Wales

Financial Service Authority

Regulator of Social Housing

Information Commissioner

Scottish Information Commissioner

Social Care and Social Work Improvement Scotland

Pensions Regulator

Secretary of State for Transport

Independent Police Complaints Commission

Officer of Communications

Gas and Electricity Markets Authority

Commissioner for Children and Young People in Scotland

Office of Qualifications and Examinations Regulation (OFQUAL)

Care and Social Services Inspectorate Wales

Healthcare Inspectorate Wales

Welsh Housing Directorate

Healthcare Improvement Scotland

## **Completed responses**

### **Q1. Does the Organisation perform the function of Prescribed Person?**

Of the 28 organisations that completed the full questionnaire they all acknowledged they are prescribed persons. This is a good sign as it amounts to 100%. However when we add all the responses received, that being 42, this percentage drops: only 30 of the organisations responded categorically as being a prescribed person (71%). 2 organisations (5%) said they were not, and 10 (24%) failed to specify either way. It is positive that the majority of those that responded were aware of their role as a prescribed person, and it is therefore more than likely that those who failed to respond or specify are aware that they too perform this function.

### **Q2. a) Did you receive training in how to perform your role?**

Of the 28 organisations that responded 14 (50%) stated they had received training and the other 50% said they had not. It is not known how the organisations interpreted this question. Some saw it as internal training provided by the organisation to employees in how to deal with disclosures, while others treated it as training provided by external organisations. These two possibilities can be seen from some of the responses. For instance, the Independent Police Complaints Commission answered no to receiving training but then commented that they had had internal training. The Office of Communications answered they had received a one day course at a solicitors. It is unclear as to whether this was

organised by the organisation itself or whether by the Department of Business innovation and skill when appointing the office as a prescribed person.

Of the 14 organisations that responded negatively, 9 (64%), felt that it would have been beneficial to receive training, including the Independent Police complaints Commission. Several organisations made additional comments, such as the Commissioner for Children and Young People in Scotland, who said “there was enormous responsibility to ‘get it right’ as the whistleblower relies on the prescribed to respond appropriately” and thus “training is vital to ensure the receiver can respond knowledgeably and confidently.” In view of this evidence, whilst this doubt over how the organisations may have interpreted the question remains, this ambiguity does not compromise the credibility of the results.

The statement from the Commissioner suggests that the organisations do take this responsibility seriously and want to do right by the whistleblower. The lack of training when taking up the role, however, is not desirable, and it is clear from results that it would be beneficial. It is never too late to provide training. A recommendation that can be drawn from this evidence is that an organisation is asked to take on the role of a prescribed person; adequate training should be put in place. This should also be provided for those who already perform the role, so as to help them in their understanding. Furthermore by having this training in place it would create a forum where the prescribed persons could share between them their practices and experiences, enabling a greater relationship between these organisations and a similarity in approach to external disclosures.



**Q2. B) Did you receive training in what to expect when whistleblowers contact you?**

14 organisations 50% also answered this negatively. Unsurprisingly, these 14 organisations are the same 14 that received no training. Again 9 of the 14 (64%) felt it would have been beneficial to receive training on this aspect. Several of the 14 made comments: For instance, the Accounts Commission for Scotland, the Auditor General for Scotland and Audit Scotland stated that they received no specific whistleblowing training but did train in complaint handling and this helped, but they still felt it would be beneficial to receive training on what to expect.

The commissioner for children and young people in Scotland felt that training for this should be offered to all staff in prescribed bodies as standard. Of the 5 organisations that responded that they did not receive training on this and felt it was not necessary, 2 of them made comments. The Information Commissioner stated that whilst it did not think it beneficial, staff within the department were aware of the PIDA guidance on the ICO website as well as the role the ICO plays (the ICO did well on the website survey, with findings under 4 of the search terms). The Social Care and Social work improvement Scotland (Care Inspectorate) stated that 'their staff would follow their complaints procedure (see my response to Q5 for thoughts on this) when dealing with a disclosure and, the issue as to whether a disclosure is a matter for the employer and employee and to be judged by the Employment Tribunal'.

Of the remaining 14 responses 13, (46%) responded that had received training in this aspect of whistleblowing. The final organisation, the Financial Services Authority, gave neither a yes or no (in relation to this comment). They did comment, however, stating that “whistleblowers contact the regulator frequently..... It is not an issue as to what we expect, whistleblowers are volunteers who are placing themselves often in a difficult position in order to do what they feel to be right....”

Whilst this question raises the same issues of interpretation as encountered in 2a, it is clear that a good portion of the organisation feel that training on what to expect when whistleblowers disclose would be beneficial. The comment of the Financial Services Authority clearly indicates the position a whistleblower is often in. Training on how to deal with this – communicating to the whistleblower that the matter is being taken seriously, explaining procedures, offering feedback, giving timescales and keeping the confidentiality of the whistleblower etc. – can only be a good thing.

**Q3. Were you given additional funding to assist with the additional cost this role may incur?**

This question has one minor setback in that it fails to specify whether this was funding from within the organisation or from the government. However, of the 28 responses 27 (96%!) stated that they received no additional funding. One organisation stated they did receive funding. However, based on the response from the other organisations, it is likely that they are referring to internal

funding, rather than external. Five of the organisations commented in various ways that there was internal funding available, should it become necessary. The Care Inspectorate commented that they did not think that funding was necessarily required for the role.

It is difficult to understand why the government does not consider funding to be necessary for the effective execution of the role. The role of these organisations is to receive the concerns of whistleblowers and to investigate them. In some cases this can be complex. The investigations are likely to take time and will often involve preliminary sifting and research, such as examining documents or speaking to people for information, providing feedback, whilst of these functions will be done in any event under the remit of the organisation's general functions, performing the role of a prescribed person needs to have a more serious and cautious undertone to it. The fact information has come from a worker in an employment context means that more care and sensitivity are required, and that the time and effort put in to the task of investigation is likely to be greater. This, of course, entails further expense. it would be inappropriate to provide a yearly subsidy of a fixed amount, given that the organisations vary in size and the volume of disclosures received, which is largely dependent on the area they are prescribed for. However, the answer is not to provide no funding at all, because this makes the organisation reliant on internal funding, which is often budgeted in advance and stretched across the entire organisation.

**Q4. Is there a person within your organisation who is designated to receive disclosures?**

Of the 28 responses, 20 stated they did have a person designated. The Independent Police Complaints Commission said they did not, but commented they had a department; therefore they in all likelihood have someone who is designated to receive disclosures. In the light of this it could be considered that there were, in effect 21 positive responses (75%). The remaining 7 organisations (25%) responded negatively. However, the Commissioner for Children and Young People in Scotland did specify that in the first instance it would likely be dealt with the enquiries officer or a senior manager. This was discounted as a positive result as likely lacks certainty. As they gave two potential locations the disclosure would go to in the first instance it suggests the organisation itself lacks clarity as to who is in charge of this function.

Whilst the majority do have a person or department designated for this task and should be commended, it is of concern that others do not. The failure to designate a person or department to deal with disclosures may have a knock on effect. The lack of a person/department can lead to confusion when a disclosure is received by an organisation, as illustrated by the response received from the Serious Fraud Office. If people within the organisation do not know where to refer things to, or even that the organisation is a prescribed person, this is likely to have a negative effect on any disclosure made, because the whistleblower may well perceive that the disclosure is not being taken seriously. Having a designated person or department also enables a consistent approach by an

organisation. It also gives a whistleblower a specific point of contact, should they wish to disclose further information or want further information on how the disclosure is being dealt with. Therefore, when an organisation is prescribed, it should be mandatory for them to name either a person or a department, and make this known throughout the organisation.

## Chapter 6 completed questionnaire responses (continued)

### **Q5. Do you have a specific policy/procedure for disclosures (separate to any you may have for internal staff)?**

19 organisations specified that they did have separate policy/procedure for external disclosures (68%). Of these, the Commissioner for Children and Young People in Scotland commented that the information provided was very basic and they were currently looking at how to improve their policy/procedures. It is encouraging to see that a majority of these organisations do have separate policies and that in some cases they review them for improvement. This is a step all organisations could take on a regular basis. Reviewing procedures was something recommended by the Committee on Standards in Public Life in their Tenth report<sup>22</sup>.

9 organisations, however, did not have a separate policy (22%). The Accounts Commission for Scotland, Auditor General for Scotland and Audit Scotland stated that they followed their correspondence policy when dealing with disclosures. The Social Care and Social Work Improvement Scotland use their complaints process, whilst the Secretary of State for Transport, carried out through the Maritime and Coastguard Agency, specified that they use the same policy for internal and external disclosures.

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<sup>22</sup> "Getting the balance right: Implementing standards of conduct in public life". 2005

It is positive that they all appear to have a process to follow when receiving a disclosure. However, these different approaches are not considered the best option. A separate policy for external disclosures is an appropriate approach to take. A correspondence approach suggests they enter into communication with a discloser. This would suggest numerous communications, causing extra and unnecessary pressure to a whistleblower. The emotion impact that disclosing has upon a whistleblower must not be underestimated. To keep returning to a whistleblower with questions or queries cannot be positive. Following a complaints procedure is also not appropriate. The mere suggestion of it being a complaint makes the whistleblower out to be a hindrance or a busybody. The negative connotations of the word could lead to a whistleblower interpreting that the organisation feels they are the problem, even when they have genuine concerns. This, in turn, may prevent a disclosure. A complaint is often about something tangible, whereas whistleblowers disclose their concerns. These concerns may prove to be wrong due to the fact that the person sharing their concerns is often outside of the act, observing. A concern stands in contrast to a complaint, which is often associated with a grievance procedure, whereby a person, usually a victim, may draw attention to an incident/(s), which has had a negative impact upon them.

Whilst using an identical whistleblowing policy for internal and external disclosures is a better option than those listed above, it falls short of the ideal. Internal policies are often written with an emphasis on internal disclosures, going to your line manager, and keeping things within the organisation. No organisation wants an employee to go outside, commenting on its failings or

problems. By the time a whistleblower gets to a prescribed person, the option of keeping the disclosure within the organisation will have already failed, even though the issue will usually have been raised first in that manner (in most cases this is a requirement to receive legal protection). In this case, any internal policy of a prescribed person will not give confidence to a whistleblower.

A separate policy is clearly beneficial. All prescribed persons should seek to have one and clearly advertise it. The more a whistleblower sees that a prescribed person treats their request separately to that of an internal disclosure and has a clear procedure for taking their concern seriously, the more likely it is that a whistleblower is going to have the confidence to make the disclosure.

**Q6. If someone requests advice, do you refer them to organisations that can provide it?**

24 of the respondents (86%) said that they did refer people. They were further asked which organisations they refer them to. 15 of the 24 named the leading charity Public Concern at Work. Other organisations listed were Citizens Advice, law centres, HR centres and trade unions. One troubling result was that of the Scottish Information Commissioner, who responded that they would refer them to organisations per the schedule and then gave the link<sup>23</sup>. The problem with using this list, as identified earlier, is that it has changed considerably since its implementation in 2003. It runs the risk of referring whistleblowers to

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<sup>23</sup> [www.legislation.gov.uk/ukxi/2003/1993/made](http://www.legislation.gov.uk/ukxi/2003/1993/made)



organisations that either do not exist or are no longer prescribed. Furthermore, if the individual merely wants advice prior to blowing the whistle to a prescribed person, the prescribed person may then just refer them to one of the organisations listed above, thus sending the whistleblowers around in circles.

Of the 14 that did not say they would refer (24%), two stated they would if the need arose, implying that the scenario has not yet arisen. The other two organisations just stated “no” without any comments.

**Q7. If someone makes a disclosure outside your remit, do you refer it to the correct prescribed person?**

20 of the responses said they would refer it (71%). Many of the responses said they would, but this would depend on whether they had permission to do so from the whistleblower, as it would involve confidential information, so they would often inform the whistleblower who to go to. Of those that said no, the general consensus was that they suggest the individual goes to the correct prescribed person. The Water Industry Commissioner for Scotland said they would not, but stated that their reason for this was that “we are a very small organisation, meaning that there is little scope (if at all) for something to be outside the remit of us as the prescribed person.”

It is of concern that the prescribed persons do not, as a rule, refer disclosures to correct prescribed persons. Whilst it is appropriate that the whistleblower is consulted on the referral of their details to the correct recipient, it is, however,

necessary to view the disclosure in a wide context. The whistleblower is generally disclosing information due to their concerns. It is possible that, in the context of the public interest, the disclosures could be anonymised and referred directly. By not referring, and requesting the whistleblowers do it, they run the risk of the disclosure not being made.

**Q8. If you are not the relevant prescribed person, do you tell the worker who is?**

23 organisation of those that responded said they would inform the worker of who the correct person is (82%). It is good to see that these organisations would refer. However, it is questionable as to whether it would be the correct referral, based on the problems in determining who the prescribed persons are. It is concerning that the Director General of Water Services stated that they would not, as they do not provide advice. Informing the whistleblower of who the correct person is does not amount to providing advice, but merely point the whistleblower in the right direction. Four organisations made no response of specified that the issue has yet to arise.

**Q9. As a prescribed person, do you have anything to share which could be considered good practice?**

Nine prescribed persons answered this question positively. The Accounts Commission for Scotland, Auditor General for Scotland and Audit Scotland stated that Audit Scotland's website had good booklets and guidance for whistleblowers and organisations, these having been developed in collaboration with Public Concern at Work. The Certification Officer suggested sharing "the information on his website." The Auditor General for Wales through the Welsh Order Office suggested displaying the newsletter on the website. The Financial Services Authority stated that each approach must be dealt with sensitively and meticulously. It should be handled in confidence and all attempts should be made to protect and anonymise the information. The Regulator of Social Housing suggested that good practice would involve working with Public Concern at Work to establish good operational guidance. The Healthcare Inspectorate stated that extensive guidelines, which included analysis of cases and court/tribunal decisions by Public Concern at Work and talking to the charity's staff, was a good source of information and assistance.

Ofcom stated they were unable to answer the question as there had been no disclosures since its creation in 2003. The Civil Aviation Authority did not have any comment, but was willing to be contacted to discuss question 9 and 10 in person. All other organisations had nothing to add.

**Q10. Is there anything else you would like to add about your role as a prescribed person?**

The majority of prescribed persons had nothing to add; however, a few added a comment. Those that did so made some valuable and interesting points. The Water Industry Commissioner for Scotland pointed out that it is likely the role varies depending on the size of the organisation, as the opportunities for issues to arise in the smaller ones is more limited, but the effect of any that do occur are magnified.

The Financial Services Authority felt that, within an organisation, the person or small team receiving the disclosure(s) should be beyond reproach; they should be regarded as senior within the organisation. They should be well versed in the procedures and have sufficient expertise in the area regulated, so as to fully appreciate any concerns and issues raised.

The Gas and Electricity Markets Authority commented that the role has grown organically at the organisation and required refocusing, which they are doing with the help of Public Concern at Work. Healthcare Improvement Scotland commented that there was still a lot to be done in the area.

Taken as a whole, the responses to both question 9 and 10 show that there is some commonality among the prescribed persons. Clearly they take their concern seriously. The fact that Public Concern at Work appeared prominently throughout the responses suggests that, as a leading organisation in the field of whistleblowing, they are trusted and respected as a good source of information for both whistleblowers and prescribed persons.



## Chapter 7 International Comparison

### Choosing a Country

One way of deciding whether a piece of legislation is effective is by comparing it with other countries and their legislative framework on the subject. The leading countries in this area would be United States of America<sup>24</sup>, United Kingdom<sup>25</sup> and Australia<sup>26</sup>. Other countries have legislation that protects whistleblowers such as South Africa<sup>27</sup>, Japan<sup>28</sup> and many European countries.

However in comparing the other countries with the UK it is unlikely that any significant differences would be found, as South African legislation used the UK model in crafting its own protections<sup>29</sup>. The Japanese system is not seen as assisting whistleblowers<sup>30</sup> it is therefore more likely to produce comments that would aid Japanese employers and legislators rather than the UK. Whilst the US and Australia are leading countries, as federal states their legislation becomes more difficult to compare with the UK. This is because it is further underpinned by local state law, or federal law has been implemented to complement and fill gaps of state law such as the Australian Public Interest Disclosure Act 2013.

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<sup>24</sup> US *Whistleblower Protection Act* 1989, False Claims Act 31 U.S.C. 3729-3733, Sarbanes-Oxley Act 2002

<sup>25</sup> Public Interest Disclosure Act 1998

<sup>26</sup> Public Interest Disclosure Act 2013, see also individual states legislation.

<sup>27</sup> The Protected Disclosure Act 2000

<sup>28</sup> Whistleblower Protection Act (Law No. 122 of 2004)

<sup>29</sup> R Callan and G Dehn, WHISTLEBLOWING AROUND THE WORLD: Law, Culture and Practice, (Open Democracy Advice Centre, 2004) page147

<sup>30</sup> Protection Law fails Whistleblowers, The Japan Times, (Editorial Comment 27/09/2011) <http://www.japantimes.co.jp/opinion/2011/09/27/editorials/protection-law-fails-whistleblowers/#.UjRpFz9D2Hg> accessed 14/09/2013

This chapter will look at New Zealand. New Zealand has the Protected Disclosure Act 2000 (PDA). As the UK Public Interest Disclosure Act 1998 (PIDA) was enacted earlier it is possible that the PDA has elements that could be drawn on to potentially improve the UK legislation. David Lewis has also commented that the New Zealand legislation has provisions which could be beneficial<sup>31</sup>. The PDA is also a national law that does not depend or require any state or local legislation and is similar to the UK in that regard also. Since both countries are also common law jurisdictions, there is enough similarity between the two that any potential recommendations could be implemented and have an effect. The comparison has been done using the 2009 reprinted version of Protected Disclosure Act 2000 which is believed to be the most recent updated version of the New Zealand legislation.

### **The Comparison**

The PDA legislation places 4 requirements for a disclosure to receive protection.

Under S6 it requires that:

*(a) the information is about serious wrongdoing in or by*

*that organisation; and*

*(b) the employee believes on reasonable grounds that the*

*information is true or likely to be true; and*

*(c) the employee wishes to disclose the information so that*

*the serious wrongdoing can be investigated; and*

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<sup>31</sup> D Lewis, Whistleblowing at Work: On What Principles Should Legislation Be Based? Ind Law J (2001) 30 (2): 163-193

*(d) the employee wishes the disclosure to be protected.*

The legislation here differs from PIDA as PDA requires that there is serious wrongdoing. What amounts to serious wrongdoing is not clearly defined in the legislation, although categories for which serious wrongdoing can be protected are specified such as corrupt or irregular use of public funds or resources<sup>32</sup>. The categories under PDA are geared towards public institutions whereas PIDA has a much more open position. Another distinction is that PDA is worded in such a way that the activity is actually occurring, whereas PIDA only requires that it might occur. PDA only requires the reasonable belief that the information is true or likely to be regardless of whom they are disclosing it too whereas PIDA as previously mentioned in chapter 1 changes the requirement dependent who they are disclosing to. PDA also requires that the employee wishes to disclose it and also they wish for the disclosure to be protected. It is possible that an employee may not wish to make a disclosure but will do as it forms a legal obligation or contractual obligation. Under PIDA neither requirement is made on the employee. If the employee makes the disclosure they will be doing it as they want the issue to be investigated and dealt with accordingly so that test in PDA seems unnecessary. The employee will just want the issue dealt with and is unlikely to be thinking further down the line to potential issues where they may need the legislative protection so it's unlikely they will wish to mention they want the protection. Therefore it could be said that the requirement to specify they want protection could mean people are unable to seek the legal protection

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<sup>32</sup> Section 3 (1) Serious Wrongdoing



that they need. On the alternative view however if an employee makes the employer aware they want the protection the employer may take the concern more seriously. Should an employee not mention they want PDA protection they may still receive protection as the legislation allows a technical failure such as failing to mention requirement D from S6 to receive protection. Each statute has the purpose of promoting the disclosure of information by employees that is in the public interest and protecting such employees.<sup>33</sup> Both PDA and PIDA have a very similar approach to who is entitled to protection under the legislation. Both are linked to employment protection and thus require the person to be an employee or worker. The PDA list<sup>34</sup> to who is an employee/worker is similar to that of PIDA although it can be said that New Zealand list is much clearer. The PDA however unlike PIDA provides protection for volunteers without reward or expectation of reward. PIDA provides no such protection unless a volunteer can bring themselves within the definition of a worker.

Both legislative provisions work to encourage internal disclosure, the PIDA provisions are loose when it comes to who internally one discloses too whereas PDA is very prescriptive. PDA requires that any internal procedure must be complied with to receive the protection<sup>35</sup>. Should someone try to comply with the procedure but make an error, for instance making the disclosure on the

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<sup>33</sup> Section 5 PDA and see Preamble to PIDA

<sup>34</sup> Section 3 (1) Employee

<sup>35</sup> S7 PDA

required form but giving it to the wrong person, whilst this is incorrect and fails to meet S7 the protection may still apply as it can be treated as a technical failure.<sup>36</sup> If the organisation has no procedure or the employee believes the person who is to receive the information is involved or is connected through relationship or association to someone involved, then the employee must go to the head of the organisation<sup>37</sup>. The fact the New Zealand legislation is so prescriptive gives some sense of certainty as to the process of whistleblowing however it can be seen as negative as it may take much longer for the issue to be resolved. The loose nature of PIDA allows the employee to go to a person who can actually resolve the situation relatively quickly, compared to PDA, where the disclosure could go to several different people before it reaches a person who can rectify the issue.

Where internal disclosure fails, much like PIDA the PDA permits external disclosure<sup>38</sup>. PDA allows a disclosure to be made to an appropriate authority which is listed in the statute<sup>39</sup>. The list is much smaller than that of PIDA however the people are of a similar or higher position to those listed in UK legislation. This is potentially due to the fact that PDA requires it to be serious before the law will protect a disclosure. The PDA however expressly excludes MP's and Minister of the Crown<sup>40</sup> from receiving a disclosure, whereas although MP's are not listed in

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<sup>36</sup> Section 6A PDA

<sup>37</sup> Section 8 PDA

<sup>38</sup> Section 9 PDA

<sup>39</sup> Section 3 (1) appropriate authority

<sup>40</sup> Section 3 (1) appropriate authority

PIDA Ministers of the crown are<sup>41</sup>. This seems contrary to the public interest although in very limited circumstances minister of the crown may receive a disclosure<sup>42</sup>. MPs can hold public organisations to account so to not have them as an appropriate authority or a prescribed person seems to limit the options of making a disclosure externally.

In the same way that the ERA protects an individual from any retaliatory action from their employer or colleagues such as harassment, victimisation or even dismissal, the PDA also gives such protection.<sup>43</sup>

Whilst there are many similarities there are some considerable differences. The PDA makes no provision for any further disclosure when the employee has disclosed internally and externally and they have failed. It can be said therefore that the legislation is geared to resolving the issue without the need to involve the media and other such types of organisations. The role of the ombudsman goes further than just being an appropriate authority under S9. . The ombudsman is permitted to give advice when requested or when they feel it is required<sup>44</sup>. When a person informs the ombudsman orally or in writing they have or are about to make a disclosure under the Act, the ombudsman must inform them of several things listed in the Act.<sup>45</sup> To enable the ombudsman to comply with this provision, they have the power to ask organisations for a copy of their

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<sup>41</sup> Section 43E Employment Rights Act 1996

<sup>42</sup> Section 10 PDA

<sup>43</sup> Section 17

<sup>44</sup> Section 6B

<sup>45</sup> Section 6B (2)

procedures and information about its implementation.<sup>46</sup> If the organisation is a private entity it can however refuse whereas a public one must comply with a request.<sup>47</sup> Should a public sector organisation fail to have a procedure in place they will be in breach of the Act as it requires that they have an internal procedure in place<sup>48</sup> which informs the employee of provisions within the act. The public sector organisation has an obligation to widely publicise the existence of the policy and do it at regular intervals.<sup>49</sup>

Should an ombudsman feel that a disclosure needs to be referred to an appropriate authority or different appropriate authority where one has already been contacted, provided the employee agrees and other parts of the Act have been followed, then an ombudsman may make a reference.<sup>50</sup> They can also refer to a Minister of the Crown.<sup>51</sup> The ombudsman may also where it involves a public organisation assist, either at their discretion or at the organisation's request, with guiding the investigation or reviewing it.<sup>52</sup> The ombudsman has the power to take over an investigation if certain criteria are met, such as the employee consenting<sup>53</sup>.

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<sup>46</sup> Section 6C

<sup>47</sup> Section 6C (2)

<sup>48</sup> Section 11 PDA

<sup>49</sup> Section 11 (3) PDA

<sup>50</sup> Section 15 (1) A

<sup>51</sup> Section 15 (1) B

<sup>52</sup> Section 15 B

<sup>53</sup> Section 15 A

PDA allows for the transferring of a disclosure from one appropriate authority to another<sup>54</sup> where it is agreed by the two that the other is the more appropriate organisation to investigate and deal with the disclosure. This transfer can occur on more than one occasion.<sup>55</sup> There is no requirement to have the approval of the employee but they must be informed.<sup>56</sup>

An employee making a disclosure is entitled to confidentiality throughout the process, although this confidentiality has some restrictions and in some instances may be overridden. However, all appropriate authorities must do their utmost to retain the confidentiality of the employee.<sup>57</sup> No such provision exists within PIDA. They are also granted immunity from civil or criminal actions.<sup>58</sup> This is in stark contrast from PIDA which provides no such protection. As no illegal act can be committed in releasing the information it implies no criminal action will result in a PIDA compliant disclosure. However it does not prevent someone bringing a civil action such as defamation against a whistleblower.

Where a colleague of the employee making the disclosure assists by providing supporting information they will be protected and given the protections of immunity, confidentiality and protection from retaliatory actions.<sup>59</sup> The supporting information is only supporting information if it's volunteered i.e. Not

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<sup>54</sup> Section 16

<sup>55</sup> Section 16 (4)

<sup>56</sup> Section 16 (2)

<sup>57</sup> Section 19

<sup>58</sup> Section 18

<sup>59</sup> Section 19A

supplied in response to a request by an investigator. The information must be given voluntarily and not given under a legal or contractual obligation to do so<sup>60</sup>. PIDA has no provision of a similar kind. The failure to have such a provision means that should someone wish to support a whistleblower they would need to disclose any information they had in a way to bring them within the PIDA protection. It can be seen that a provision, such as that of New Zealand, could be highly beneficial in facilitating the provision of information of wrongdoing, where it supports a disclosure already made by another person.

The PDA is much more rigid than PIDA, and in doing so lacks some of the fluidity that PIDA provides, allowing for disclosures to be made without needing to meet very fixed criteria. The PDA being much more definitive, in what is expected of whistleblowers, means that it is very unlikely for there to be a grey area. Should a whistleblower be uncertain the provision within the legislation allowing the ombudsman to provide advice will hopefully clear up that uncertainty. Being able to go to an ombudsman to seek advice is of great benefit as it allows an employee to get a clear indication of whether their disclosure will meet the requirements of the Act and thus the protection. Whereas in the UK an individual will have to wait for a tribunal to make such a decision, which by that stage the disclosure is made and it is too late for the employee to back away and not make the disclosure. Allowing the appropriate authority to transfer the disclosure to the correct authority for investigation is of benefit also as it moves the disclosure

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<sup>60</sup> Section 19A (3)

away from the whistleblower, who may get fed up of being told to go elsewhere to make the disclosure, and then not make the disclosure to the correct place.

Giving the authorities power to transfer may relieve whistleblowers of the burden of finding an appropriate recipient.

## **Chapter 8 Conclusions and Recommendations**

### **Conclusions**

#### **Legislation**

The Public Interest Disclosure Act 1998 has many benefits and is a worthwhile piece of legislation. However, as we have seen, there are some gaping holes in the statutory provisions that let whistleblowers down. As we saw in Chapter 1, one problem that whistleblowers face is that the legal test varies depending who the disclosure is made to. Whilst it is appropriate that a high threshold should be set for those wishing to go to the media and other such channels, it is inappropriate for there to be a different test between disclosing to an employer and to a regulator. The legislative requirement that the whistleblowers disclosure be “substantially true” requires, in reality, that the whistleblower does some investigation into the matter. However, as the regulators have the power to investigate, the reasonable belief test that applies to making an internal disclosure should also apply to disclosures to regulators, thus relieving the burden of providing evidence from the whistleblower.

Whilst not necessarily a significant problem with the legislation, its failure to explicitly protect certain individuals, such as volunteers, is something which could be remedied: it would enable a greater number of people, who do not necessarily fall within the category of employee or worker, to be protected, which can only be a good thing. This is an approach that other countries, such as New Zealand, have taken (see Chapter 7).



The legislation plays a reactionary, not a preventative, role. Whilst this is not necessarily a bad thing, the law could provide some measure of prevention. One simple option would be to take the stance adopted by New Zealand and make a requirement of all public organisations to have a whistleblowing policy/procedure. Any such policy/procedure should meet certain standards and at a minimum include an explanation of what whistleblowing is, who to disclose to within the organisation, which prescribed person/s may be approached should the internal avenue fail and what the organisation will provide the whistleblower i.e. anonymity, updates or notification of the end result. It is possible that this could be done through a code of practice however with such varied industries this option may not be the best as what fits one may not suit another. Therefore a minimum requirement set down in the legislation is likely to be the best option to achieve whole sale compliance. If such a requirement was made, it would be better to make the obligation on all employers, both private and public. This way, any employee or worker would have a clear understanding of what whistleblowing is and their role in preventing or notifying the relevant person of wrongdoing.

As noted in Chapter 3, the legislation fails to provide potential whistleblowers any avenue for receiving advice from the regulators prior to making a disclosure. This is in stark contrast to the New Zealand legislation described in Chapter 7, where there is a positive obligation upon the Ombudsman to provide advice when requested or when considered appropriate. As no resources are currently given it is wrong for the government and the regulators to rely on organisations, such as Public Concern at Work, to provide advice on potential disclosures.

We saw in Chapter 1 that recent changes to employment law mean that individuals now have to pay to bring a claim in the employment tribunal. Where an individual is making a claim based on a public interest disclosure, they should be exempt from such fees. This is as although any claim may be for a personal detriment suffered, by making the disclosure the person has done a public service.

The legislation permits the Secretary of State to appoint under orders Prescribed Persons. As we saw in Chapter 2, this list continually evolves under many Statutory Instruments and Acts of Parliament. The fact that a full list of Prescribed Persons was last published in full, in 2003, creates many problems, as can be seen throughout this study. The list, as it stands today, compiled for this research (see appendices) will soon be incorrect, as Statutory Instrument 2013 No. 2213 makes several amendments to the list. As commented in Chapter 2, every time a Statutory Instrument makes an amendment, it fails to list categorically all the Prescribed Persons. Statutory Instrument 2013 has this same failing. It is incumbent upon those that make the legislation and appoint Prescribed Persons to make sure that individuals have easy access to a complete, correct and up-to-date list, which, at present, they fail to do. Whether this is an oversight or a lack of care by those responsible, it could be easily rectified by relisting all Prescribed Persons in a schedule every time the list is amended by a Statutory Instrument or Act of Parliament. The government in their call for evidence (see below) are contemplating doing away with appointing Prescribed Persons through Statutory Instruments, and instead appointing them as the Secretary of State sees fit. The failing of the Department of Business, Innovation

and Skill to maintain an accurate list as discussed in Chapter 2 suggests that any softening of the law regarding the appointment is going to cause even more confusion. At current, the Prescribed Persons can at least be traced through legislation. This will be impossible, should that idea come about.

### **Prescribed Persons**

As can be seen from Chapter 3, the majority of Prescribed Persons fail to have any serious information on their websites about their role under the legislation. As Lewis and Lavery concluded over two years ago, this failing cannot be a mere oversight. The failure to have clearly accessible information on their website can only have a negative effect on potential whistleblowers. If a whistleblower is looking for information today, they are most likely to turn to the Internet via devices such as mobile phones and tablets, rather than picking up a phone and calling. Therefore, it is imperative that the Prescribed Persons have detailed information on the websites, including a link to this information on the front page.

Throughout Chapters 4, 5 and 6, we have seen that the attitudes of Prescribed Persons vary, some taking their role very seriously, while others only ascribe some importance to it. One of the points of the questionnaire was to see how open and transparent the Prescribed Persons are. As we can see, a whole Chapter has been dedicated to those organisations that either did not respond, or did so negatively. Certain organisations chose not to answer the questionnaire, citing various reasons, such as department policy, the limited nature of their role, or the lack of resources. This shows a lack of accountability

and transparency, which, in turn, poses a question for those who wish to make disclosures to the organisations concerned. The fact they are unwilling to confirm simple questions, such as whether they consider themselves a Regulator, through to whether they have a policy in place, suggests that they may not be meeting the necessary standard required of them for the role.

Whilst many of the Prescribed Persons did respond, as can be seen in Chapters 5 and 6, the responses varied. Many of the Regulators expressed a lack of training, which, to them was a disadvantage. They thought that training would have been beneficial. All but one received no funding from the government to support them in this role. Whilst all have policies, the divergence of these policies is of concern, especially those that use complaints procedures or their own internal whistleblowing policies. This is discussed in Chapter 6. As previously mentioned, none of the Regulators give advice; however, some did refer to the work of Public Concern at Work. It is worrying to see that many of the Regulators, if approached, and they turn out to be the wrong Regulator, would only inform the whistleblower who to go to. The Regulators should have the power and the willingness to refer disclosures to the correct Regulator, regardless of the whistleblowers views, where it is in the public interest to do so. This is permitted in New Zealand's legislation.

### **Consultation for change**

The conclusions drawn above show that there is considerable work to be done in protecting whistleblowers. This need for review has been recognised and is currently occurring. Public Concern at Work has set up the Whistleblowing

Commission. Their terms of reference are “to examine the existing arrangements for workplace whistleblowing and make recommendations for change<sup>61</sup>.” The Commission first met on the 24<sup>th</sup> of January 2013. On the 27<sup>th</sup> of March 2013, the Commission launched a public consultation, which ended on the 21<sup>st</sup> of June. The Commission sought views on the various areas of whistleblowing, from law and policy, tribunals, through to the regulators. At current, the Commission are considering the results from the consultation and finalising a report. The results of the questionnaire and the website searching, as discussed through Chapter 3-6, were put in evidence to the Commission in the hope that some of the issues found in this research would be raised, and potential recommendations made and actioned.

Further to this, the Department for Business, Innovation & Skills has launched its own consultation<sup>62</sup>. The consultation however seeks views which are based on evidence rather than individual’s views, it must be questioned whether it truly can be deemed a consultation. The call for evidence was published on 12<sup>th</sup> July 2013 and closes on the 1<sup>st</sup> November 2013. The purpose of this consultation is to seek views about the legislation. The government recognises in the consultation document that the legislation has not been reviewed since its implementation. Therefore, they seek views on wide ranging issues from the definition of workers, through to the role of the Prescribed Persons. It is hoped that this research will

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<sup>61</sup> [www.pcaw.org.uk](http://www.pcaw.org.uk) accessed 28/09/2013

<sup>62</sup> The Whistleblowing framework: call for evidence BIS/13/953

form part of a response to that call, and, in turn, have some impact on any potential changes that may be made to the Prescribed Persons and their role.

## **Recommendations**

1. Legislation should be amended so that whistleblowers have the same test, whether disclosing to an employer, or a prescribed person. This will not affect the need of a whistleblower to go to their employer first but will alleviate any burden there may be on the whistleblower to do their own investigation.
2. It should be mandatory for all employers to have a whistleblowing policy/procedure and publicise it broadly. By broadly it is suggested that it should have prominence within the organisation, but also outside of the organisation too so that those linked to it are aware of it and can use it.
3. Volunteers should be protected under the legislation.
4. The list of Prescribed Persons should be maintained and updated regularly. Any changes to the list through any legislation should result in a schedule to that legislation which details the complete list of Prescribed Persons.
5. Prescribed Persons should be permitted to give advice to potential whistleblowers.
6. All Prescribed Persons should have a page on their website providing details about their role under the legislation. Those Prescribed Persons

who share a website with other Prescribed Persons should make sure that the page clearly identifies what each Prescribed Person deals with.

7. All Prescribed Persons should undergo sufficient training to enable them to perform their role. This includes sharing good practice with other Prescribed Persons, where it exists.
8. Consideration should be given to providing ring-fenced funding for the performance of their role.
9. All Prescribed Persons should have mandatory obligation to have a policy solely for the purposes of receiving disclosures from external whistleblowers.
10. All Persons should have a designated person/department to receive disclosures.
11. Prescribed Persons should have an obligation to refer a disclosure to the correct organisation when they are the incorrect recipient. This may be in an anonymous form to comply with data protection, should permission be refused by the discloser.

### **Further Research**

This Study has been limited. It has however shown that the role of prescribed persons is one that needs further investigation. As mentioned in chapter 2 some organisation treated the questionnaires as freedom of information requests, while others failed to respond at all. It would be of interest to make such requests on those that did not respond to see whether the trends found during

this study and the conclusions drawn could be further substantiated. Further research could be made into the regulators and whether there is consistent approach across the field when dealing with disclosures and how best to approach creating such consistency if found to be lacking.

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## **Bibliography**

### **Legislation UK**

Charities and Trustees Investment (Scotland) Act 2005

Employment Rights Act 1996

Enterprise and Regulatory Reform Act 2013

Freedom of Information Act 2000

Official Secrets act 1911

Official Secrets Act 1989

Public Interest disclosure Act 1998

### **Secondary Legislation**

Employment Tribunals and the Employment Appeals Tribunal Fees Order 2013

Public Interest Disclosure (prescribed Persons) Order 1999 No 1549

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 No 1993

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2004 No 3265

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2005 No 2464

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2008 No 531

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2009 No 2457

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2010 No 7

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2012 No 462

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013 No 2213

## **Non UK Legislation**

False Claims Act 31 U.S.C. 3729-3733

Public Interest Disclosure Act 2013

Sarbanes-Oxley Act 2002

The Protected Disclosure Act 2000

Whistleblower Protection Act (Law No. 122 of 2004)

*Whistleblower Protection Act* 1989

## **Cases**

Gartside v Outram (1856) 3 Jur NS 39

Initial Services v Putterill [1968] 1 QB 396

Kraus v Penna plc [2004] IRLR 360

Parkins v Sodexho [2002] IRLR 109

Street v Derbyshire Unemployed Workers' Centre [2005] ICR 97

## **Books**

F. Lipman, WHISTLEBLOWERS: Incentives, Disincentives, and Protection Strategies, (Wiley and Sons, 2012)

J. Bowers QC et al, Whistleblowing Law and Practice, (2<sup>nd</sup> edition, Oxford University Press, 2012)

N. Selwyn, Selwyn's Law of Employment, (16<sup>th</sup> Edition, Oxford University Press, 2011)

R. Callan and G. Dehn, WHISTLEBLOWING AROUND THE WORLD: Law, Culture and Practice, (Open Democracy Advice Centre, 2004)

S. Deakin and G. Morris, Labour Law, (6<sup>th</sup> Edition, Hart Publishing, 2012)

## Articles

- D. Lewis, A survey of whistleblowing/confidential reporting procedures used by persons prescribed under the Public Interest Disclosure Act 1998, *Communications Law*, 2007 12 (4). pp. 124-130
- D. Lewis, Whistleblowing at Work: On What Principles Should Legislation Be Based? *Ind Law J* (2001) 30 (2): 163-193
- D. Lewis, Ten years of Public Interest Disclosure Act 1998 claims: what can we learn from the statistics and recent research?, *Industrial Law Review*, 2010, 39(3), 325-328
- D. Lewis, Enterprise and regulatory reform – whistleblowing aspects, *Employment law Bulletin*, 2012, 110(Aug), 4-5
- D. Lewis and A. Laverty, A survey of information about whistleblowing provided on the websites of persons prescribed under part IVA Employment Rights Act 1996, *Middlesex University*, May 2011
- G. Gunasekara, Whistle-blowing: New Zealand and UK Solutions to a common Problem, *Statute Law Rev* (2003) 24 (1): 39
- G. Gunasekara, Legislation to protect whistleblowers: Is the proposed solution just what the doctor ordered or is it too blunt an instrument? Some conceptual flaws and pragmatic considerations, *New Zealand Law Journal*, 1994, 303-306
- L. Vickers, Whistling in the Wind? The Public Interest Disclosure Act 1998, 20 *Legal Stud* 428 2000
- V. Craig, Public interest Disclosure act 1998: prescribed persons and compensation, *Employment Law bulletin*, 1999, 32(Aug), 2-3

## Inquiries

- Court Inquiry, Department for Transport, Ct no. 8074, 1987, HMSO
- Public inquiry into the Piper Alpha disaster, CM. 1310 (1990)

## **Other Sources**

Committee on Standards in public life, Tenth Report, “Getting the balance right: Implementing standards of conduct in public life”, 2005

Hansard, Committees debate – 9<sup>th</sup> Sitting: House of Commons 3<sup>rd</sup> July 2012 (1) (2),

Hansard HL, 5 June 1998, col 621, Lord Haskell

Hansard HL, 19 June 1998, cols 1801-1802, Lord Borrie

Protection Law fails Whistleblowers, The Japan Times, (Editorial Comment 27/09/2011)

<http://www.japantimes.co.jp/opinion/2011/09/27/editorials/protection-law-fails-whistleblowers/#.UjRpFz9D2Hg> accessed 14/09/2013

The Whistleblowing framework: call for evidence BIS/13/953

Whistleblowing: beyond the law, Public Concern at Work Review, October 2011

## **Websites**

[http://www.safecall.co.uk/key-facts/info\\_1.html](http://www.safecall.co.uk/key-facts/info_1.html) accessed 28/09/2013

[whistleblowers.uk.com](http://whistleblowers.uk.com) accessed 28/09/2013

<http://wbhelpline.org.uk> accessed 28/09/2013

[www.pcaw.org.uk](http://www.pcaw.org.uk) accessed 28/09/2013

[www.gov.uk](http://www.gov.uk) accessed 28/09/2013

[www.welsh.gov.uk](http://www.welsh.gov.uk) accessed 28/09/2013

# **APPENDICIES**

- 1. Ethics Approval**
- 2. Covering Letter**
- 3. Questionnaire**
- 4. My Prescribed Person List**
- 5. Prescribed Persons as amended throughout legislation**
- 6. Prescribed Persons Web Site Survey**
- 7. Prescribed Person Survey Response information**
- 8. Department for Business Innovation and skill Prescribed Persons List**

Middlesex University  
Business School London

[Supervisor Login](#)

[SRCEP Login](#)

## RESEARCH ETHICS APPROVAL FORM

Ref: 281-1-3933

NAME OF RESEARCHER: Arron Phillips

STATUS: Postgraduate

PROGRAMME OF STUDY: LLM in Employment Law

NAME OF SUPERVISOR/TUTOR: Professor David Lewis

NAMES OF ANY RESEARCH COLLABORATORS:

PROPOSED TITLE OF RESEARCH PROJECT: whistleblowing externally: Does the Public Interest Disclosure Act 1998 fail whistleblowers when internal disclosure fails?

BRIEF DESCRIPTION OF THE MAIN AIMS OF THE STUDY: The Aims of this study are to look at the prescribed Persons as appointed under legislation, to see whether they fulfill the aims of the legislation as an alternate source for a whistleblower to make disclosures. The study will look at the legislation and make comparison with another country to see whether it could be changed to benefit whistleblowers.

HAVE YOU READ AND UNDERSTOOD THE UNIVERSITY'S *CODE OF PRACTICE FOR RESEARCH: PRINCIPLES AND PROCEDURES*? Yes

IS THIS STUDY A LITERATURE REVIEW (LIBRARY STUDY) WHICH DOES NOT INVOLVE COLLECTING PRIMARY DATA? No

WILL YOUR RESEARCH INVOLVE:

- a) CONDUCTING INTERVIEWS? No
- b) PARTICIPANT OBSERVATION? No
- c) USE OF QUESTIONNAIRE(S) WHICH YOU HAVE DESIGNED? Yes
- d) FOCUS GROUPS? No
- e) OBSERVATION? No

WILL YOU OBTAIN WRITTEN INFORMED CONSENT DIRECTLY FROM RESEARCH PARTICIPANTS? Yes

DO YOU INTEND TO OFFER INCENTIVES TO RESEARCH PARTICIPANTS? No

WILL YOU INFORM PARTICIPANTS OF THEIR RIGHT TO WITHDRAW FROM THE RESEARCH AT ANY TIME? No

WILL YOU GUARANTEE CONFIDENTIALITY OF INFORMATION TO PARTICIPANTS? Yes

WILL YOU GUARANTEE ANONYMITY TO PARTICIPANTS? No

If no, please give reasons: The research is looking at the role of organisations appointed under legislation to receive information and potentially investigate wrongdoing that is in the public interest. As such the role they perform is a public one and they are accountable to the public.

DOES YOUR RESEARCH METHODOLOGY RAISE ANY SAFETY/LEGAL ISSUES FOR YOU OR YOUR PARTICIPANTS? No

DO YOU HAVE ANY ETHICAL CONCERNS ABOUT THIS RESEARCH PROJECT? No

**STUDENT DECLARATION**

THE INFORMATION GIVEN ON THIS FORM IS TRUE TO THE BEST OF MY KNOWLEDGE. I WILL USE THESE METHODS IN MY RESEARCH UNLESS I RENEGOTIATE ANY CHANGES WITH MY SUPERVISOR/ TUTOR.

STUDENT SIGNATURE



DATE 28/9/13

[THE FOLLOWING STATEMENTS ARE FOR THE SUPERVISOR/TUTOR TO TICK AS APPROPRIATE.]

- a) I HAVE READ THE INFORMATION SUPPLIED ON THIS FORM AND DO NOT THINK THAT IT RAISES ANY ISSUES THAT NEED TO BE CONSIDERED BY SRCEP.
- b) I HAVE READ THE INFORMATION SUPPLIED ON THIS FORM AND HAVE REFERRED/WILL REFER THE PROPOSAL TO SRCEP FOR THEIR CONSIDERATION.
- c) THIS PROPOSAL HAS BEEN APPROVED BY SRCEP.

SIGNATURE OF SUPERVISOR/TUTOR



DATE 3/10/13

Please print this form and complete the declaration above. You may also want to save a copy for your records.

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13 The Orchard

Swanley

Kent

BR8 7UR

20/02/2013

**TO WHOM IT MAY CONCERN**

I am currently undertaking a dissertation for my LLM in Employment Law at Middlesex University. My research is about the role of the prescribed persons under the Part IVA of the Employment Rights Act 1996.

Since undertaking my undergraduate degree, I have developed an interest in the positive role 'whistleblowers' can play. Since 1998 Parliament has recognised that it is of great public importance that employees who wish to blow the whistle have somewhere to go. Legislation allows for this and having done some research I believe that your organisation may be a prescribed person.

I hope that you will be willing to assist my research by completing the survey attached and sending it back in the envelope provided. Alternatively you can email the survey to [AL589@live.mdx.ac.uk](mailto:AL589@live.mdx.ac.uk). The survey should take no more than 15 minutes and **your return will be treated as STRICTLY CONFIDENTIAL.**

If you have any questions or queries please feel free to contact me or my supervisor, Professor David Lewis. He can be contacted via [d.b.lewis@mdx.ac.uk](mailto:d.b.lewis@mdx.ac.uk) or 0208 411 5983

Kind Regards,

Arron Lavery LLB(Hons)

## STRICTLY CONFIDENTIAL

### QUESTIONNAIRE ON THE ROLE OF PRESCRIBED PERSONS

1. Part IVA of the Employment Rights Act 1996 creates the role of a prescribed person for workers who wish to make a disclosure of information outside of their workplace.

Do you perform this function? Yes/No

2. If yes to Question 1, have you received any training in:

a) How to perform the role? Yes/No

If no, do you think this would have been beneficial?  
Yes/No

b) What to expect when whistleblowers contact you Yes/No

If no, do you think this would have been beneficial?  
Yes/No

3. Were you given any funding to assist with additional costs that the role may incur? Yes/No

4. Is there a person within your organisation who is designated to accept and investigate disclosures made to you as a prescribed person? Yes/No

5. Do you have a policy/procedure on how to deal with disclosures made to you as a prescribed person (separate to any you may have internally for your own staff)? Yes/No

6. If someone requests advice, do you refer them to other organisations that can provide it? Yes/No

If yes, please specify the organisations you refer them to.

7. If someone makes a disclosure that is outside your remit, do you refer it to the appropriate prescribed person? Yes/No

If no, is there a reason for this? Please specify

8. If you are not the relevant prescribed person in a particular situation, do you tell the worker who would be an appropriate recipient? Yes/No

9. As a prescribed person, have you come across or applied anything that you would consider good practice that could be shared with others? Yes/No  
If yes, please specify

10, Is there anything else you would like to add about your role as a prescribed person? Yes/No  
If yes, please specify

**THANK YOU FOR YOUR PARTICIPATION. YOUR CO-OPERATION IS MUCH  
APPRECIATED.**

## Current Prescribed Person List

Prescribed Person	created by	in force
accounts commission for Scotland and auditors appointed by the commission	SI/2003/1993	1st oct 2003
audit commission for England and wales and auditors appointed by the commission	SI/2003/1993	1st oct 2003
certification officer	SI/2003/1993	1st oct 2003
charity commissioners for England and wales	SI/2003/1993	1st oct 2003
chief executive of the criminal cases review commission	SI/2003/1993	1st oct 2003
chief executive of the Scottish criminal cases review commission	SI/2003/1993	1st oct 2003
civil aviation authority	SI/2003/1993	1st oct 2003
the competent authority under part IV of the financial services and markets act 2000	SI/2003/1993	1st oct 2003
commissioner for revenue and customs	commissioner for revenue and customs act 2005	2005
comptroller and auditor general of the national audit office	SI/2003/1993	1st oct 2003
auditor general for wales	SI/2003/1993	1st oct 2003
auditor general for Scotland	SI/2003/1993	1st oct 2003
audit Scotland	SI/2003/1993	1st oct 2003
director general of water services	SI/2003/1993	1st oct 2003
water industry commissioner for Scotland	SI/2003/1993	1st oct 2003
director of serious fraud office	SI/2003/1993	1st oct 2003
lord advocate Scotland	SI/2003/1993	1st oct 2003
environment agency	SI/2003/1993	1st oct 2003
Scottish environment protection agency	SI/2003/1993	1st oct 2003
food standards agency	SI/2003/1993	1st oct 2003
financial services authority	SI/2003/1993	1st oct 2003
care council for wales	SI/2003/1993	1st oct 2003
Scottish social services council	SI/2003/1993	1st oct 2003

children's commissioner for wales	SI/2003/1993	1st oct 2003
health and safety executive	SI/2003/1993	1st oct 2003
home and communities agency	housing and regeneration act 2008	8th September 2008 and 1st April 2012
local authorities which are responsible for enforcement of health and safety legislation	SI/2003/1993	1st oct 2003
information commissioner	SI/2003/1993	1st oct 2003
Scottish information commissioner	SI/2003/1993	1st oct 2003
care quality commission	SI/2009/462	1st April 2009
social care and social work improvement Scotland	public service reform (Scotland) act 2010	1st august 2010
pensions regulator	SI/2005/2464	1st oct 2005
office of fair trading	SI/2003/1993	1st oct 2003
rail regulator	SI/2003/1993	1st oct 2003
local commissioner in wales	SI/2003/1993	1st oct 2003
standards commission for Scotland and the chief investigating officer	SI/2003/1993	1st oct 2003
department for business, innovation and skill		6th June 2009
secretary of state for transport	SI/2003/1993	1st oct 2003
local authorities which are responsible for the enforcement of consumer protection legislation	SI/2003/1993	1st oct 2003
local authorities which are responsible for the enforcement of food standards	SI/2003/1993	1st oct 2003
independent police complaints commission	SI/2004/3265	1st Jan 2005
office of communications	SI/2005/2464	1st oct 2005
gas and electricity markets authority	SI/2005/2464	1st oct 2005
children's commissioner	SI/2008/531	6th April 2008

commissioner for children and young people in Scotland	SI/2008/531	6th April 2008
independent regulator of NHS foundation trusts	SI/2009/2457	1st oct 2009
financial reporting council limited	SI/2009/2457	1st oct 2009
office of qualifications and examinations regulations	SI/2012/462	22nd march 2012
Serious Organised Crime Agency		
office of the Scottish charity regulator	formed Dec 2003	put on a statutory footing in charities and trustees investment (Scotland) Act 2005
care and social services inspectorate wales		national welsh assembly still responsible but performed through this organisation
healthcare inspectorate wales	created by health and social care (community health and standards) act 2003	appears to be the welsh equivalent to care quality commission
welsh housing directorate	bis	
healthcare improvement Scotland	Public Services Reform (Scotland) Act 2010	
Health and Care Profession Council		
Consumer Product and Safety		

## Prescribed Persons as amended throughout legislation

Prescribed Person	created by	in force	abolished merged by	date	became
accounts commission for Scotland and auditors appointed by the commission	SI/2003/1993	1st oct 2003			
audit commission for England and Wales and auditors appointed by the commission	SI/2003/1993	1st oct 2003			
certification officer	SI/2003/1993	1st oct 2003			
charity commissioners for England and Wales	SI/2003/1993	1st oct 2003			
the Scottish ministers	SI/2003/1993	1st oct 2003			Office of Scottish Charity Regulator
chief executive of the criminal cases review commission	SI/2003/1993	1st oct 2003			
chief executive of the Scottish criminal cases review commission	SI/2003/1993	1st oct 2003			
civil aviation authority	SI/2003/1993	1st oct 2003			
the competent authority under part IV of the financial services and markets act 2000	SI/2003/1993	1st oct 2003			
commissioners of customs and excise	SI/2003/1993	1st oct 2003	(merger) commissioner for revenue and customs act 2005	18th April 2005	commissioner for revenue and customs
commissioners of the inland revenue	SI/2003/1993	1st oct 2003	(merger) commissioner for revenue and customs act 2005	18th April 2005	commissioner for revenue and customs

commissioner for revenue and customs	commissioner for revenue and customs act 2005	2005			
comptroller and auditor general of the national audit office	SI/2003/1993	1st oct 2003			
auditor general for wales	SI/2003/1993	1st oct 2003			
auditor general for Scotland	SI/2003/1993	1st oct 2003			
audit Scotland	SI/2003/1993	1st oct 2003			
director general of electricity supply	SI/2003/1993	1st oct 2003	SI/2005/2464 (abolished)	1st oct 2005	gas and electricity markets authority
director of general of gas supply	SI/2003/1993	1st oct 2003	SI/2005/2464 (abolished)	1st oct 2005	gas and electricity markets authority
director general of telecommunications	SI/2003/1993	1st oct 2003	SI/2005/2464 (abolished)	1st oct 2005	office of communications
director general of water services	SI/2003/1993	1st oct 2003			
water industry commissioner for Scotland	SI/2003/1993	1st oct 2003			
director of serious fraud office	SI/2003/1993	1st oct 2003			
lord advocate Scotland	SI/2003/1993	1st oct 2003			
environment agency	SI/2003/1993	1st oct 2003			
Scottish environment protection agency	SI/2003/1993	1st oct 2003			
food standards agency	SI/2003/1993	1st oct 2003			
financial services authority	SI/2003/1993	1st oct 2003			
general social care council	SI/2003/1993	1st oct 2003			
care council for wales	SI/2003/1993	1st oct 2003			
Scottish social services council	SI/2003/1993	1st oct 2003			



children's commissioner for wales	SI/2003/1993	1st oct 2003			
health and safety executive	SI/2003/1993	1st oct 2003			
housing corporation	SI/2003/1993	1st oct 2003	housing and regeneration act 2008 (abolished)	8th September 2008	power moved to the tenants service authority
tenants services authority	housing and regeneration act 2008	8th September 2008	(merged)	1st April 2012	home and communities agency
home and communities agency	housing and regeneration act 2008	8th September 2008 and 1st April 2012			
local authorities which are responsible for enforcement of health and safety legislation	SI/2003/1993	1st oct 2003			
information commissioner	SI/2003/1993	1st oct 2003			
Scottish information commissioner	SI/2003/1993	1st oct 2003			
national care standards commission	SI/2003/1993	1st oct 2003	SI/2004/664 (abolished)	1st April 2004	commission for healthcare audit and inspection or commission for social care inspection
commission for healthcare audit and inspection	SI/2004/664	1st April 2004	SI/2009/462 (abolished)	1st April 2009	care quality commission

commission for social care inspection	SI/2004/664	1st April 2004	SI/2009/462 (abolished)	1st April 2009	care quality commission
care quality commission	SI/2009/462	1st April 2009			
national welsh assembly	SI/2003/1993	1st oct 2003			
Scottish commission for regulation of care	SI/2003/1993	1st oct 2003	public service reform (Scotland) act 2010	1st august 2010	social care and social work improvement Scotland
social care and social work improvement Scotland	public service reform (Scotland) act 2010	1st august 2010			
care inspector	name adopted by social care and social work improvement Scotland	15th September 2011			
occupational pensions regulatory authority	SI/2003/1993	1st oct 2003	SI/2005/2464 (abolished)	1st oct 2005	pensions regulator
pensions regulator	SI/2005/2464	1st oct 2005			
office of fair trading	SI/2003/1993	1st oct 2003			
rail regulator	SI/2003/1993	1st oct 2003			
standards board for England	SI/2003/1993	1st oct 2003	SI/2012/668 (abolished)	1st April 2012	reverts back to secretary of state
local commissioner in wales	SI/2003/1993	1st oct 2003			
standards commission for Scotland and the chief investigating officer	SI/2003/1993	1st oct 2003			
treasury	SI/2003/1993	1st oct 2003			

secretary of state for trade and industry	SI/2003/1993	1st oct 2003	disbanded	28th June 2007	department for business, enterprise and regulatory reform
department for business, enterprise and regulatory reform		28th June 2007	disbanded	6th June 2009	Dept. of BIS
department for business, innovation and skill		6th June 2009			
secretary of state for transport	SI/2003/1993	1st oct 2003			
local authorities which are responsible for the enforcement of consumer protection legislation	SI/2003/1993	1st oct 2003			
local authorities which are responsible for the enforcement of food standards	SI/2003/1993	1st oct 2003			
independent police complaints commission	SI/2004/3265	1st Jan 2005			
office of communications	SI/2005/2464	1st oct 2005			
gas and electricity markets authority	SI/2005/2464	1st oct 2005			
children's commissioner	SI/2008/531	6th April 2008			
commissioner for children and young people in Scotland	SI/2008/531	6th April 2008			
independent regulator of NHS foundation trusts	SI/2009/2457	1st oct 2009			
financial reporting council limited	SI/2009/2457	1st oct 2009			
professional oversight board	SI/2009/2457	1st oct 2009			
financial reporting review panel	SI/2009/2457	1st oct 2009			

accountancy and actuarial discipline board	SI/2009/2457	1st oct 2009			
office of qualifications and examinations regulations	SI/2012/462	22nd march 2012			
office of the Scottish charity regulator	formed Dec 2003	put on a statutory footing in charities and trustees investment (Scotland) Act 2005			
care and social services inspectorate wales		national welsh assembly still responsible but performed through this organisation			
healthcare inspectorate wales	created by health and social care (community health and standards) act 2003	appears to be the welsh equivalent to care quality commission			
welsh housing directorate	bis				
healthcare improvement Scotland	Public Services Reform (Scotland) Act 2010				

## Prescribed Person Website Survey Results

Organisation	website	whistle blower	whistle blowing	protected disclosure	public interest disclosure	confidential reporting
accounts commission for Scotland	<a href="http://www.audit-scotland.gov.uk/about/ac/">http://www.audit-scotland.gov.uk/about/ac/</a>	yes	yes	yes	yes	no
audit commission for England and wales	<a href="http://www.audit-commission.gov.uk/">http://www.audit-commission.gov.uk/</a>	yes	yes	no	yes	no
certification officer	<a href="http://www.certoffice.org/">http://www.certoffice.org/</a>	no	yes	yes	yes	no
charity commissioner for England and wales	<a href="http://www.charity-commission.gov.uk/">http://www.charity-commission.gov.uk/</a>	server too busy				
Scottish minister	<a href="http://www.scotland.gov.uk/Topics/People/15300/charities/faqs-1/law">http://www.scotland.gov.uk/Topics/People/15300/charities/faqs-1/law</a>	N/A as now performed by OSCR				
chief exec of criminal case review commission	<a href="http://www.justice.gov.uk/about/criminal-cases-review-commission">http://www.justice.gov.uk/about/criminal-cases-review-commission</a>	no	no	no	no	no
chief exec of Scottish criminal case review commission	<a href="http://www.sccrc.org.uk/home.aspx">http://www.sccrc.org.uk/home.aspx</a>	no	no	no	no	no
civil aviation authority	<a href="http://www.caa.co.uk/">http://www.caa.co.uk/</a>	yes	yes	yes	yes	no
competent authority	<a href="http://www.londonstockexchange.com/home/homepage.htm">http://www.londonstockexchange.com/home/homepage.htm</a>	no	no	no	no	no
commission for revenue and customs	<a href="http://www.hmrc.gov.uk/">http://www.hmrc.gov.uk/</a>	no	no	no	no	no
comptroller and auditor general of national audit office	<a href="http://www.nao.org.uk/">http://www.nao.org.uk/</a>	no	no	no	no	no

auditor general for wales	<a href="http://www.wales.gov.uk/about-us/theauditorgeneralforwales.asp">http://www.wales.gov.uk/about-us/theauditorgeneralforwales.asp</a>	yes	yes	yes	yes	no
auditor for Scotland	<a href="http://www.audit-scotland.gov.uk/about/ags/">http://www.audit-scotland.gov.uk/about/ags/</a>	yes	yes	yes	yes	no
audit Scotland	<a href="http://www.audit-scotland.gov.uk/">http://www.audit-scotland.gov.uk/</a>	yes	yes	yes	yes	no
director general of water services	<a href="http://www.ofwat.gov.uk/">http://www.ofwat.gov.uk/</a>	no	no	no	no	no
water industry commissioner for Scotland	<a href="http://www.watercommission.co.uk/">http://www.watercommission.co.uk/</a>	no	no	no	no	no
director of serious fraud office	<a href="http://www.sfo.gov.uk/">http://www.sfo.gov.uk/</a>	yes	yes	yes	yes	yes
lord advocate Scotland	<a href="http://www.crownoffice.gov.uk/About/Departmental-Overview/RoleofAdvocate">http://www.crownoffice.gov.uk/About/Departmental-Overview/RoleofAdvocate</a>	no	no	no	no	no
Environment agency	<a href="http://www.environment-agency.gov.uk/">http://www.environment-agency.gov.uk/</a>	no	no	no	no	no
Scottish environment protection agency	<a href="http://www.sepa.org.uk/">http://www.sepa.org.uk/</a>	no	no	no	no	no
food standards agency	<a href="http://www.food.gov.uk/">http://www.food.gov.uk/</a>	yes	yes	yes	yes	no
financial services authority	<a href="http://www.fsa.gov.uk">www.fsa.gov.uk</a>	yes	yes	no	yes	no
care council for wales	<a href="http://www.ccwales.org.uk">http://www.ccwales.org.uk</a>	no	no	no	no	no
Scottish social services council	<a href="http://www.sssc.uk.com/">http://www.sssc.uk.com/</a>	no	no	no	no	no
children's commissioner for wales	<a href="http://www.childcom.org.uk">www.childcom.org.uk</a>	no	no	no	no	no
health and safety executive	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>	no	yes	yes	yes	no

regulator of social housing	<a href="http://www.homesandcommunities.co.uk/">http://www.homesandcommunities.co.uk/</a>	no	no	no	no	no
information commissioner	<a href="http://ico.org.uk/">http://ico.org.uk/</a>	yes	yes	yes	yes	no
Scottish information commissioner	<a href="http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx">http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx</a>	no	no	no	no	no
care quality commission	<a href="http://www.cqc.org.uk">www.cqc.org.uk</a>	yes	yes	no	no	no
Social Care and Social Work improvement Scotland	<a href="http://www.scs.wis.com/">http://www.scs.wis.com/</a>	no	no	no	no	no
pensions regulator	<a href="http://www.the-pensionsregulator.gov.uk/">http://www.the-pensionsregulator.gov.uk/</a>	no	yes	no	yes	yes
office of fair trading	<a href="http://www.oft.gov.uk">www.oft.gov.uk</a>	no	no	no	no	no
rail regulator	<a href="http://www.rail-reg.gov.uk">www.rail-reg.gov.uk</a>	no	no	no	no	no
local commissioner for wales	<a href="http://www.ombudsmen-wales.org.uk">www.ombudsmen-wales.org.uk</a>	no	no	no	no	no
standards commission for Scotland	<a href="http://www.standardscotland.org.uk">www.standardscotland.org.uk</a>	no	no	no	no	no
department of business innovation and skill	<a href="http://www.bis.gov.uk/insolvency">http://www.bis.gov.uk/insolvency</a>	no	no	no	no	no
secretary of state for transport	<a href="http://www.dft.gov.uk/mca">www.dft.gov.uk/mca</a>	no	no	no	no	no
independent police complaints commission	<a href="http://www.ipcc.gov.uk">www.ipcc.gov.uk</a>	no	no	no	no	no
officer of communications	<a href="http://www.ofcom.org.uk">www.ofcom.org.uk</a>	no	no	yes	yes	no

Gas and Electricity markets authority	<a href="http://www.ofgem.gov.uk">www.ofgem.gov.uk</a>	yes	yes	no	yes	no
children's commissioner	<a href="http://www.childrenscommissioner.gov.uk/">http://www.childrenscommissioner.gov.uk/</a>	no	no	no	no	no
commission for children and young people in Scotland	<a href="http://www.sccyp.org.uk/">http://www.sccyp.org.uk/</a>	no	no	no	no	no
independent regulator of nhs foundation trusts	<a href="http://www.monitor-nhsft.gov.uk/">http://www.monitor-nhsft.gov.uk/</a>	no	yes	yes	yes	no
financial reporting council	<a href="http://www.frc.org.uk/Home.aspx">http://www.frc.org.uk/Home.aspx</a>	no	no	yes	yes	no
ofqual	<a href="http://www.ofqual.gov.uk">www.ofqual.gov.uk</a>	yes	yes	yes	yes	no
serious organised crime agency	<a href="http://www.soca.gov.uk">www.soca.gov.uk</a>	no	no	no	no	no
health and care profession council	<a href="http://www.hpc-uk.org/">http://www.hpc-uk.org/</a>	no	no	no	no	no
care and social services inspectorate of wales	<a href="http://wales.gov.uk/cssiwsbsite/newcssiw/?lang=en">http://wales.gov.uk/cssiwsbsite/newcssiw/?lang=en</a>	no	no	no	no	no
healthcare inspectorate wales	<a href="http://www.hiwo.org.uk/">http://www.hiwo.org.uk/</a>	no	yes	no	no	no
Welsh Housing Directorate	<a href="http://wales.gov.uk/topics/housingandcommunity/housing/?lang=en">http://wales.gov.uk/topics/housingandcommunity/housing/?lang=en</a>	no	no	no	no	no
healthcare improvement Scotland	<a href="http://www.healthcareimprovementscotland.org">http://www.healthcareimprovementscotland.org</a>	no	no	no	no	no
consumer product and safety	no web					



	s i t e					
office of the Scottish charity regulator	<a href="http://www.oscr.org.uk/">http://www.oscr.org.uk/</a>	no	no	no	no	no

## Prescribed Person Survey Response Information

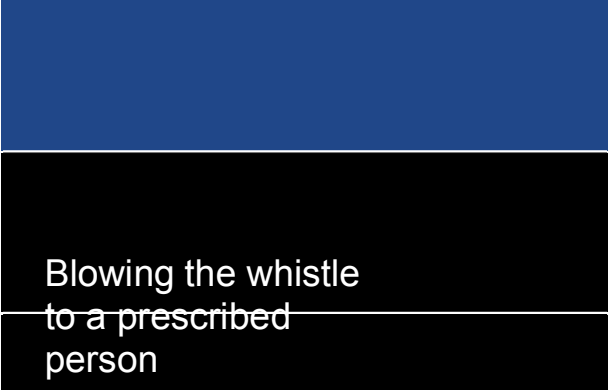
Organisation	address	survey number	responded to post	email address	responded to email
accounts commission for Scotland	controller of audit, 18, EH2 2QU	1	yes	n/a	
audit commission for England and Wales	1st floor millbank tower, sw1p 4hq	2		<a href="mailto:public-enquiries@audit-commission.gsi.gov.uk">public-enquiries@audit-commission.gsi.gov.uk</a>	yes
certification officer	22nd floor Euston tower 286, nw1 3jj	3	yes	n/a	
charity commissioner for England and Wales	2nd floor 20 kings parade, l3 2dq	4		online form only	
Scottish minister	director for Scottish charities 25, eh1 1la	5		n/a as role is performed by OSCR	
chief exec of criminal case review commission	ccrc 5, b3 2pw	6	yes	n/a	
chief exec of Scottish criminal case review commission	sccrc 5th floor Portland house 17, g2 5ah	7		<a href="mailto:info@sccrc.org.uk">info@sccrc.org.uk</a>	
civil aviation authority	caa house 45-59 Kingsway wc2b 6te	8	yes	n/a	
competent authority	head of listings department London stock exchange 10, ec4m 7ls	9		no suitable email	
commission for revenue and customs	freepost nat22785, Cardiff, cf14 5gx	10		no suitable email	

comptroller and auditor general of national audit office	157-197 Buckingham palace road, Victoria, sw1w 9sp	11	yes	n/a	
auditor general for wales	24, cf11 9lj	12	yes	<a href="mailto:whistleblowing@wao.gov.uk">whistleblowing@wao.gov.uk</a>	received paper response after email sent
auditor for Scotland	110, eh2 4lh	13	yes	n/a	
audit Scotland	18, eh2 2qu	14	yes	n/a	
director general of water services	centre city tower 7, b5 4ua	15	yes	n/a	
water industry commissioner for Scotland	wicfs first floor moray house fk8 1 qz	16		<a href="mailto:enquiries@watercommission.co.uk">enquiries@watercommission.co.uk</a>	yes
director of serious fraud office	2-4, sw1y 5bs	17		<a href="mailto:confidential@sfo.gsi.gov.uk">confidential@sfo.gsi.gov.uk</a>	yes
lord advocate Scotland	crown office 25, eh1 1la	18		<a href="mailto:ps_copfs@scotland.gsi.gov.uk">ps_copfs@scotland.gsi.gov.uk</a>	yes
environment agency	horizon house deanery road bs1 5ah	19	yes	n/a	
Scottish environment protection agency	Erskine CT fk9 4tr	20	yes	n/a	
food standards agency	aviation house 125 Kingsway wc2b 6nh	21		<a href="mailto:helpline@foodstandards.gov.uk">helpline@foodstandards.gov.uk</a>	
financial services authority	25, e14 5hs	22	yes	n/a	
care council for wales	6th floor, west wing, Southgate house, wood street Cardiff cf10 1ew	23	yes	n/a	
Scottish social services council	compass house 11, dd1 4ny	24		<a href="mailto:enquiries@sssc.uk.com">enquiries@sssc.uk.com</a>	

children's commissioner for wales	oystermouth house, phoenix way sa7 9fs	25	yes	n/a	no search function on the website
health and safety executive	rose court, 2, se1 9hs	26		no suitable email	
regulator of social housing	homes and communities agency maple house 149, w1t 7bn	27	yes	n/a	
information commissioner	Wycliffe house water lane sk9 5af	28		<a href="mailto:casework@ico.org.uk">casework@ico.org.uk</a>	yes
Scottish information commissioner	kinburn castle doubledykes road kt16 9ds	29		<a href="mailto:enquiries@itspublicknowledge.info">enquiries@itspublicknowledge.info</a>	yes
care quality commission	national customer service centre citygate ne1 4pa	30	yes	ENQ1-642862853 enquiries@cqc.org.uk	yes
social care and social work improvement Scotland	compass house, dd1 4ny	31		<a href="mailto:enquiries@careinspectorate.com">enquiries@careinspectorate.com</a>	yes
pensions regulator	Napier house bn1 4dw	32		<a href="mailto:wb@tpr.gov.uk">wb@tpr.gov.uk</a>	yes
office of fair trading	fleetbank house 2-6, ec4y 8jx	33	yes	n/a	
rail regulator	one Kemble street wc2b 4an	34	yes	n/a	
local commissioner for wales	1 fford yr hen gae cf35 5lj	35	yes	n/a	
standards commission for Scotland	Scottish parliament eh99 1sp	36	yes	n/a	
department of business innovation and skill	insolvency service 3rd floor cannon house 18, b4 6fd	37		<a href="mailto:insolvency.enquiryline@insolvency.gsi.gov.uk">insolvency.enquiryline@insolvency.gsi.gov.uk</a>	yes

secretary of state for transport	maritime & coastguard agency spring place 105, so15 1eg	38		<a href="mailto:whistleblowing@mcga.gov.uk">whistleblowing@mcga.gov.uk</a>	yes
independent police complaints commission	90, wc1v 6bh	39	yes	n/a	
officer of communications	office of communications riverside house 2a se1 9ah	40		<a href="mailto:designatedofficeronthewebsite@ofcom.org.uk">designated officer on the website graham.howell@ofcom.org.uk</a>	yes
gas and electricity markets authority	9, sw1p 3ge	41		<a href="mailto:whistle@ofgem.gov.uk">whistle@ofgem.gov.uk</a>	yes
children's commissioner	33 sw1p 2qf	42		<a href="mailto:info.request@childrenscommissioner.gsi.gov.uk">info.request@childrenscommissioner.gsi.gov.uk</a>	yes
commission for children and young people in Scotland	85 holyrood rd eh8 8au	43		<a href="mailto:inbox@sccyp.org.uk">inbox@sccyp.org.uk</a>	yes
independent regulator of nhs foundation trusts	monitor 4, sw1h 9np	44		<a href="mailto:enquiries@monitor.gov.uk">enquiries@monitor.gov.uk</a>	yes
financial reporting council	frc 5th floor aldwyche house 71-91 aldwyche wc2b 4hn	45		<a href="mailto:enquiries@frc.org.uk">enquiries@frc.org.uk</a>	
ofqual	spring place herald avenue Coventry cv5 6ub	46	yes	n/a	
serious organised crime agency	soca po box 8000 se11 5en	47		no suitable email	
health and care profession council	park house 184, se11 8bu	48	yes	n/a	

care and social services inspectorate of wales	national office welsh government cf48 1yz	49		<a href="mailto:CSSIWComms@wales.gsi.gov.uk">CSSIWComms@wales.gsi.gov.uk</a>	yes
healthcare inspectorate wales	bevan house cf83 3ed	50	yes	n/a	
welsh housing directorate	welsh government cf10 3nq	51	yes	n/a	yes
healthcare improvement Scotland	gyle square 1, eh12 9eb	52	yes	n/a	
consumer product and safety	1 Victoria street sw1h 0et	53		no suitable email	
office of the Scottish charity regulator	quadrant house 9, dd1 4ny	54	yes	n/a	



Blowing the whistle  
to a prescribed  
person

# Blowing the whistle to a prescribed person

## The prescribed bodies or persons

If you decide to blow the whistle to a prescribed person rather than your employer, you must make sure that you have chosen the correct person or body for your issue. For example, if you are blowing the whistle on broadcasting malpractice you should contact the Office of Communications.

Below is a list of the prescribed people and bodies who you can make a disclosure to. In addition, you could also blow the whistle to your legal adviser, in the course of obtaining legal advice, or to a government minister or member of the Scottish Executive if you are a public sector employee.

More information on whistleblowing can be found on the GOV.UK website:  
[www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing).



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## Broadcasting and communications

### ***The Office of Communications***

about broadcasting, radio and TV services and media ownership

Chairman  
The Office of Communications  
Riverside House  
2a Southwark Bridge Road  
London  
SE1 9HA  
Tel: 020 7981 3000  
Fax: 020 7981 3333  
[www.ofcom.org.uk](http://www.ofcom.org.uk)

## Business, finance or fraud

### ***The Commissioners for Her Majesty's Revenue & Customs (HMRC)***

about the following areas:

- tax
- excise duties
- import and export of restricted goods
- stamp duties
- national insurance contributions
- statutory maternity pay
- statutory sick pay
- tax credits
- child benefits
- collection of student loans
- enforcement of the national minimum wage

HM Revenue and Customs  
Freepost NAT22785  
Cardiff  
CF14 5GX  
Tel: freephone 0800 788 887  
Online: Tax evasion hotline  
Fax: free fax 0800 783 0879  
Textphone: 0845 915 3296  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

***The Audit Commission for England and Wales***

about the following areas:

- the conduct of public business
- value for money
- fraud and corruption in local government and health service bodies

The Audit Commission

1<sup>st</sup> Floor

Millbank Tower

Millbank

London SW1P 4HQ

Tel: 0844 798 3131

[www.audit-commission.gov.uk/about-us/contact-us/whistleblowing](http://www.audit-commission.gov.uk/about-us/contact-us/whistleblowing)

***The Comptroller and Auditor General of the National Audit Office***

about public businesses in England, this includes value for money, fraud and corruption in providing centrally funded public services

The Comptroller and Auditor General

National Audit Office

157-197 Buckingham Palace Road

Victoria

London

SW1W 9SP

Tel: 020 7798 7999

[www.nao.org.uk/about\\_us/concerns\\_about\\_public\\_spending.aspx](http://www.nao.org.uk/about_us/concerns_about_public_spending.aspx)

***The Secretary of State for the Department for Business, Innovation and Skills***

about insider dealing or fraud and other misconduct in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes)

Companies Investigation Branch

The Insolvency Service

3<sup>rd</sup> Floor, Cannon House

18 Priory Queensway

Birmingham

B4 6FD

Email: [Intelligence.Services@insolvency.gsi.gov.uk](mailto:Intelligence.Services@insolvency.gsi.gov.uk)

[www.bis.gov.uk/insolvency](http://www.bis.gov.uk/insolvency)

***The Director of the Serious Fraud Office***

about serious or complex fraud in England or Wales

The Director of the Serious Fraud Office

2-4 Cockspur Street

London

SW1Y 5BS

Tel: 020 7239 7272

Email: [confidential:sfo.gsi.gov.uk](mailto:confidential:sfo.gsi.gov.uk)

[www.sfo.gov.uk/fraud/sfo-confidential---giving-us-information-in-confidence.aspx](http://www.sfo.gov.uk/fraud/sfo-confidential---giving-us-information-in-confidence.aspx)

***The Auditor General for Wales***

about public businesses in Wales; including value for money, fraud and corruption in providing public services

PIDA Officer

The Auditor General for Wales

24 Cathedral Road

Cardiff

CF11 9LJ

Email: [whistleblowing@wao.gov.uk](mailto:whistleblowing@wao.gov.uk) Tel:

01244 52980

[www.wao.gov.uk/aboutus/whistleblowing.asp](http://www.wao.gov.uk/aboutus/whistleblowing.asp)

***Accounts Commission for Scotland***

about conduct of public business, value for money, fraud and corruption in local government in Scotland

The Controller of Audit

Accounts Commission for Scotland

18 George Street

Edinburgh

EH2 2QU

Tel: 0845 146 1010

Email: [info@audit-scotland.gov.uk](mailto:info@audit-scotland.gov.uk)

[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

***The Lord Advocate, Scotland***

about serious or complex fraud in Scotland

The Head of the International and Financial Crime Unit

Crown Office

25 Chambers Street

Edinburgh

EH1 1LA

Tel: 0131 226 2626

Fax: 0131 226 6861

Email: [ps\\_copfs@scotland.gsi.gov.uk](mailto:ps_copfs@scotland.gsi.gov.uk)

[www.crownoffice.gov.uk](http://www.crownoffice.gov.uk)

***Audit Scotland***

about public businesses in Scotland, including value for money, fraud and corruption in public bodies

The Director of Audit Review  
Audit Scotland  
18 George Street  
Edinburgh  
EH2 2QU  
Tel: 0845 146 1010  
Email: [info@audit-scotland.gov.uk](mailto:info@audit-scotland.gov.uk)  
[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

***The Auditor General for Scotland***

about public businesses in Scotland, including value for money, fraud and corruption in providing public services

The Auditor General for Scotland  
Audit Scotland  
110 George Street  
Edinburgh  
EH2 4LH  
Tel: 0845 146 1010  
Email: [info@audit-scotland.gov.uk](mailto:info@audit-scotland.gov.uk)  
[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

***The Financial Services Authority (FSA)***

about the operation of banks, building societies, investment or insurance businesses or any other activities regulated by the FSA, for example financial crime

Director, Authorisation  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS  
Tel: 020 7676 4646  
Fax: 020 7676 9727  
Email: [whistle@fsa.gov.uk](mailto:whistle@fsa.gov.uk)  
[www.fsa.gov.uk](http://www.fsa.gov.uk)

***Serious Organised Crime Agency***

about money laundering and major financial crimes

SOCA  
PO Box 8000  
London SE11 5EN  
Tel: 0800 234 6657  
[www.soca.gov.uk](http://www.soca.gov.uk)

***The competent authority under Part IV of the Financial Services and Markets Act 2000***

about the listing of securities on a stock exchange; prospectuses on offers of transferable securities to the public

Head of Listing Department  
London Stock Exchange  
10 Paternoster Square  
London  
EC4M 7LS  
Tel: 020 7797 1000  
[www.londonstockexchange.com](http://www.londonstockexchange.com)

***Financial Reporting Council Limited and its operating bodies the Professional Oversight Board, the Financial Reporting Review Panel and the Accountancy and Actuarial Discipline Board***

matters relating to the independent oversight of the regulation of the accountancy, auditing and actuarial professions

Financial Reporting Council  
5th floor  
Aldwych House  
71-91 Aldwych  
London  
WC2B 4HN  
Tel: 020 7492 2300  
Email: [enquiries@frc.org.uk](mailto:enquiries@frc.org.uk)  
[www.frc.org.uk](http://www.frc.org.uk)

## **Charities**

***The Charity Commissioners for England and Wales***

about the administration of charities in England and Wales or for funds given or held for charitable purposes

Charity Commission  
Tel: 0845 300 0218  
[www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

***The Scottish Ministers***

about the administration of charities in Scotland or for funds given or held for charitable purposes

Director of Scottish Charities  
Crown Office  
25 Chambers Street  
Edinburgh  
EH1 1LA

Tel: 0131 226 2626  
Fax: 0131 226 6912

***The Chief Executive of the Criminal Cases Review Commission***

about actual or potential miscarriages of justice in England, Wales and Northern Ireland

Criminal Cases Review Commission  
5 St Philip's Place  
Birmingham  
B3 2PW  
Tel: 0121 233 1473  
Email: [info@ccrc.gov.uk](mailto:info@ccrc.gov.uk)  
[www.justice.gov.uk](http://www.justice.gov.uk)

***Chief Executive of the Scottish Criminal Cases Review Commission***

*about actual or potential miscarriages of justice*

Scottish Criminal Cases Review Commission  
5th Floor, Portland House  
17 Renfield Street  
Glasgow  
G2 5AH  
Tel: 0141 270 7030  
Fax: 0141 270 7040  
Email: [info@sccrc.org.uk](mailto:info@sccrc.org.uk)  
[www.sccrc.org.uk](http://www.sccrc.org.uk)

## **Children's interest**

***Children's Commissioner***

about the views and interests of children in England

The Office of the Children's Commissioner  
33 Greycoat Street  
London  
SW1P 2QF  
Tel: 020 7783 8330  
Email: [info.request@childrenscommissioner.gsi.gov.uk](mailto:info.request@childrenscommissioner.gsi.gov.uk)  
[www.childrenscommissioner.gov.uk](http://www.childrenscommissioner.gov.uk)

***Children's Commissioner for Wales***

about the rights and welfare of children in Wales

Children's Commissioner for Wales  
Oystermouth House  
Phoenix Way  
Swansea Enterprise Park  
Llansamlet  
Swansea

SA7 9FS  
Tel: 01792 765600  
Fax: 01792 765601  
Email: [post@childcomwales.org.uk](mailto:post@childcomwales.org.uk)  
[www.childcomwales.org.uk](http://www.childcomwales.org.uk)

***Commissioner for Children and Young People in Scotland***

about promoting and safeguarding the rights of children and young people in Scotland

Scotland's Commissioner for Children and Young People  
85 Holyrood Road  
Edinburgh  
EH8 8AU  
Tel: 0131 558 3373  
Fax: 0131 556 3378  
Email: [info@sccyp.org.uk](mailto:info@sccyp.org.uk)  
[www.sccyp.org.uk](http://www.sccyp.org.uk)

**Consumer protection**

***The Office of Fair Trading***

about the sale of goods or the supply of services

Office of Fair Trading  
Fleetbank House  
2-6 Salisbury Square  
London  
EC4Y 8JX  
Tel: 020 7211 8000  
Fax: 020 7211 8800  
Email: [enquiries@oft.gsi.gov.uk](mailto:enquiries@oft.gsi.gov.uk)  
[www.oft.gov.uk](http://www.oft.gov.uk)

***Consumer Product and Services Safety***

about consumer and product safety

Head, Consumer Product and Services Safety  
Consumer and Competition Policy Directorate  
Department for Business, Innovation and Skills  
1 Victoria Street  
London  
SW1H 0ET  
Tel: 020 7215 0371  
Fax: 020 7215 0357

***Local authority***

about enforcement and compliance of consumer protection



## Data protection and freedom of information

### ***The Information Commissioner***

about data protection freedom of information rights and duties in England and Wales

The Office of the Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 01625 545745  
Fax: 01625 524510  
Email: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)  
[www.ico.gov.uk](http://www.ico.gov.uk)

### ***The Scottish Information Commissioner***

about freedom of information in Scotland

Office of the Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
KY16 9DS  
Tel: 01344 464610  
Fax: 01344 464611  
Email: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)  
[www.itspublicknowledge.info](http://www.itspublicknowledge.info)

## Environment and pollution

### ***The Environment Agency***

about environmental issues in England or Wales including pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout

The Environment Agency  
Horizon House  
Deanery Road  
Bristol  
BS1 5AH  
Tel: 03708 506 506  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

***The Scottish Environment Protection Agency***

about environmental issues in Scotland including flood warning systems and pollution

Scottish Environment Protection Agency  
Erskine Court  
Castle Business Park  
Stirling  
FK9 4TR  
Tel: 01786 457700  
Fax: 01786 446885  
Email: [info@sepa.org.uk](mailto:info@sepa.org.uk)  
[www.sepa.org.uk](http://www.sepa.org.uk)

## **Food standards**

***The Food Standards Agency (FSA)***

about the protection of consumers any member of the public in relation to food

Food Standards Agency  
Aviation House  
125 Kingsway  
London  
WC2B 6NH  
Tel: 020 7276 8000  
Email: [helpline@foodstandards.gsi.gov.uk](mailto:helpline@foodstandards.gsi.gov.uk)  
[www.fsa.gov.uk](http://www.fsa.gov.uk)

***Your local authority***

about the enforcement and compliance of food standards and safety

## **Health and safety**

***The Health and Safety Executive***

about health or safety at work or the health and safety of the public in connection to

Health and Safety Executive  
Rose Court  
2 Southwark Bridge  
London SE1 9HS  
Online form: [www.hse.gov.uk/contact/workplace-complaint.htm](http://www.hse.gov.uk/contact/workplace-complaint.htm)  
Tel: 0300 0031647  
[www.hse.gov.uk](http://www.hse.gov.uk)

***Your local authority***

about the health or safety of any individual at work or the health and safety of the public in connection to a workplace

**Healthcare**

***Care Quality Commission***

about the provision of health care on the NHS or independent health care services

CQC National Customer Service Centre  
Citygate  
Gallowgate  
Newcastle upon Tyne  
NE1 4PA  
Tel: 03000 616161  
[www.cqc.org.uk](http://www.cqc.org.uk)

***The Healthcare Inspectorate Wales***

about the provision of health care by and for Welsh NHS bodies

Chief Executive  
Healthcare Inspectorate Wales  
Bevan House  
Caerphilly Business Park  
Van Road  
Caerphilly  
CF83 3ED  
Tel: 029 2092 8850  
Fax: 029 2092 8878  
[www.hiw.org.uk](http://www.hiw.org.uk)

***The Independent Regulator of NHS Foundation Trusts***

about the regulation and performance of NHS foundation trusts

Monitor  
4 Matthew Parker Street  
London  
SW1H 9NP  
Tel: 020 7340 2400  
Email: [enquiries@monitornhsft.gov.uk](mailto:enquiries@monitornhsft.gov.uk)  
[www.monitor.hsft.gov.uk](http://www.monitor.hsft.gov.uk)

## Landlords

### ***Regulator of Social Housing***

about the registration and operation of registered social landlords

Chief Executive  
Homes and Communities Agency  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN  
Tel: 0300 1234 500  
Email: [mail@homesandcommunities.co.uk](mailto:mail@homesandcommunities.co.uk)  
[www.homeandcommunities.co.uk](http://www.homeandcommunities.co.uk)

### ***The Welsh Housing Directorate***

about the registration and operation of registered social landlords in Wales

Housing Directorate  
Welsh Government  
Cathay Park  
Cardiff  
CF10 3NQ  
Tel: 0300 0603300  
Email: [wag-en@mailuk.custhelp.com](mailto:wag-en@mailuk.custhelp.com)  
[www.wales.gov.uk](http://www.wales.gov.uk)

## Local authorities

### ***The Local Commissioner in Wales***

about breaches to a local authority's code of conduct

Public Services Ombudsman  
1 Ffordd yr Hen Gae  
Pencoed  
Bridgend  
CF35 5LJ  
Tel: 01656 641150  
Fax: 01656 641199  
Email: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)  
[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

***The Standards Commission for Scotland and the Chief Investigating Officer***

about breaches by a councillor or a member of a devolved public body of their code of conduct

The Standards Commission for Scotland  
Room T2.21  
Scottish Parliament  
Edinburgh  
EH99 1SP  
Tel: 0131 348 6666  
Email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk)  
[www.standardscommmissionscotland.org.uk](http://www.standardscommmissionscotland.org.uk)

The Chief Investigating Officer  
(Address as before)

## **Pensions**

***The Pensions Regulator***

about occupational and private pensions

The Pensions Regulator  
Napier House  
Trafalgar Place  
Brighton  
BN1 4DW  
Tel: 0870 6063636  
Textphone: 0870 600 7060  
Fax: 0870 2411144  
Email: [wb@tpr.gov.uk](mailto:wb@tpr.gov.uk)  
[www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

## **Police and justice**

***Chief Executive of the Criminal Cases Review Commission***

about miscarriages of justice

Criminal Cases Review Commission  
5 St Philip's Place  
Birmingham  
B3 2PW  
Tel: 0121 233 1473  
Fax: 0121 232 0899  
Email: [info@ccrc.gov.uk](mailto:info@ccrc.gov.uk)  
[www.justice.gov.uk](http://www.justice.gov.uk)

***The Chief Executive of the Scottish Criminal Cases Review Commission***  
about miscarriages of justice in Scotland

Scottish Criminal Cases Review Commission  
5th floor, Portland House  
17 Renfield Street  
Glasgow  
G2 5AH  
Tel: 0141 270 7030  
Fax: 0141 270 7040  
[www.sccrc.org.uk](http://www.sccrc.org.uk)

***The Independent Police Complaints Commission***  
about police conduct

Independent Police Complaints Commission  
90 High Holborn  
London  
WC1V 6BH  
Tel: 020 7166 3000  
[www.ipcc.gov.uk](http://www.ipcc.gov.uk)

## **Social care**

***Care Quality Commission***  
about social care services in England

CQC National Customer Service Centre  
Citygate  
Gallowgate  
Newcastle upon Tyne  
NE1 4PA  
Tel: 03000 616161  
[www.cqc.org.uk](http://www.cqc.org.uk)

***Health and Care Professions Council***  
about social care workers in England

Health and Care Professions Council  
Park House  
184 Kennington Park Road  
London  
SE11 8BU  
Tel: 0845 300 6184  
[www.hpc-uk.org](http://www.hpc-uk.org)

***The Care Council for Wales***

about social care workers in Wales

Care Council for Wales  
6th Floor  
West Wing  
South Gate House  
Wood Street  
Cardiff  
CF10 1EW  
Tel: 029 2022 6257  
Fax: 029 2038 4764  
Email: [info@ccwales.org.uk](mailto:info@ccwales.org.uk)  
[www.ccwales.org.uk](http://www.ccwales.org.uk)

***Care Standards Inspectorate for Wales***

about care standards in Wales

Chief Executive  
Care and Social Services Inspectorate for Wales  
National Office Welsh  
Government Rhydycar  
Business Park Merthyr  
Tydfil  
CF48 1UZ  
Tel: 0300 062 8800  
Email: [cssiw@wales.gsi.gov.uk](mailto:cssiw@wales.gsi.gov.uk)  
[www.wales.gov.uk](http://www.wales.gov.uk)

***Healthcare Improvement Scotland***

about matters relating to the provision of care services, as defined in the Public Services (Scotland) Act 2010.

Healthcare Improvement Scotland  
Gyle Square  
1 South Gyle Crescent  
Edinburgh  
EH12 9EB  
Tel: 0131 623 4300  
Email: [comments.his@nhs.net](mailto:comments.his@nhs.net)  
[www.healthcareimprovementscotland.org](http://www.healthcareimprovementscotland.org)

***Social Care and Social Work Improvement Scotland***

about matters relating to the provision of independent health care services, as defined in the National Health Service (Scotland) Act 1978.

Social Care and Social Work Improvement Scotland  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY  
Tel: 01382 207100  
Email: [enquiries@careinspectorate.com](mailto:enquiries@careinspectorate.com)  
[www.scswis.com](http://www.scswis.com)

**Social services and child welfare**

***The Scottish Social Services Council***

about the social services workforce in Scotland

The Chief Executive  
Scottish Social Services Council  
Compass House  
Discovery Quay  
11 Riverside Drive  
Dundee  
DD1 4NY  
Tel: 0845 60 30 891  
Email: [enquiries@sssc.uk.com](mailto:enquiries@sssc.uk.com)  
[www.ssc.uk.com](http://www.ssc.uk.com)

***The Care and Social Services Inspectorate for Wales***

about social services in Wales

Chief Inspector  
Care and Social Services Inspectorate for Wales  
National Office Welsh  
Government Rhydycar  
Business Park Merthyr  
Tydfil  
CF48 1UZ  
Tel: 0300 062 8800  
Email: [cssiw@wales.gsi.gov.uk](mailto:cssiw@wales.gsi.gov.uk)  
[www.wales.gov.uk](http://www.wales.gov.uk)



## Trade unions

### ***The Certification Officer***

about trade union and employers' associations financial fraud or other financial irregularities

Certification Officer  
22<sup>nd</sup> Floor, Euston Tower  
286 Euston Road  
London NW1 3JJ  
Tel: 020 7210 3734/3735  
Fax: 020 7210 3612  
Email: [info@certoffice.org](mailto:info@certoffice.org)  
[www.certoffice.org](http://www.certoffice.org)

## Transport

### ***The Civil Aviation Authority***

about aviation safety

Secretary and Legal Adviser  
Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London  
WC2B 6TE  
Tel: 020 7453 6160  
Fax: 020 7453 6163  
[www.caa.org.uk](http://www.caa.org.uk)

### ***The Office of Rail Regulation***

about the provision and supply of railway services

Office of Rail Regulation  
One Kemble Street  
London  
WC2B 4AN  
Tel: 020 7282 2000  
Fax: 020 7282 2040  
[www.rail-reg.gov.uk](http://www.rail-reg.gov.uk)

***The Secretary of State for Transport***

about compliance with merchant shipping law, including maritime safety

Secretary to the Executive Board  
Maritime and Coastguard Agency  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 023 8032 9277  
Fax: 023 8032 9122

**Utilities**

***The Director General of Water Services***

about the supply of water and the provision of sewerage services in England or Wales

Director General of Water Services  
Office of Water Services  
Centre City Tower  
7 Hill Street  
Birmingham  
B5 4UA  
Tel: 0121 644 7500  
email: [mailbox@ofwat.gsi.gov.uk](mailto:mailbox@ofwat.gsi.gov.uk)  
[www.ofwat.gov.uk](http://www.ofwat.gov.uk)

***The Water Industry Commissioner for Scotland***

about the supply of water and the provision of sewerage services in Scotland

Water Industry Commissioner for Scotland  
First Floor  
Moray House  
Forthside Way  
Stirling  
FK8 1QZ  
Tel: 01786 430200  
Email: [enquiries@watercommission.co.uk](mailto:enquiries@watercommission.co.uk)  
[www.watercommission.co.uk](http://www.watercommission.co.uk)

***The Gas and Electricity Markets Authority***

about the generation, transmission, distribution and supply of electricity or the transportation, shipping and supply of gas through pipes

The Gas and Electricity Markets Authority  
9 Millbank  
London  
SW1P 3GE  
Tel: 020 7901 7000  
[www.ofgem.gov.uk](http://www.ofgem.gov.uk)

***Note***

A person (“person A”) carrying out functions, by virtue of legislation, relating to relevant failures falling within one or more matters within a description of matters in respect of which another person (“person B”) is prescribed by this Order, where person B was previously responsible for carrying out the same or substantially similar functions and has ceased to be so responsible.

About matters falling within the description of matters in respect of which person B is prescribed by this Order, to the extent that those matters relate to functions currently carried out by person A.

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